



2026:AHC:114612

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 7938 of 2026

Sheshmani Patel Alias Devraj Patel

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s) : Ashwani Kumar Mishra, Vimlendu
Tripathi

Counsel for Opposite Party(s) : G.A.

Court No. - 69

HON'BLE JITENDRA KUMAR SINHA, J.

1. Heard Sri Vimlendu Tripathi, learned counsel along with Ashwani Kumar Mishra, learned counsel for the applicant and Sri B.P. Maurya, learned AGA for the State-respondents and perused the record.

2. The present bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed on behalf of applicant with a prayer to release him on bail in Case Crime No. 61 of 2025, under Section 8/20, 29/60 NDPS Act, registered at Police Station Lanka, District Varanasi, during pendency of the trial.

3. It has been argued by the learned counsel for the applicant that applicant is innocent and he has been falsely implicated in this case and he has been languishing in jail since 20.2.2025. It is further submitted that as per FIR, 500kg of ganja is said to have been recovered from a truck and it is alleged that the said truck was being driven by the applicant, however, It is further submitted that mandatory provisions of Section 52-A of NDPS Act have not been complied with as the samples have been taken before the learned Special Judge, NDPS, Varanasi after delay of 13 months which is evidence from the order of learned Sessions Judge, Varanasi which has been annexed in the supplementary affidavit. Learned counsel for the applicant has placed reliance on a

judgement of Hon'ble Apex Court rendered in the case of Rambabu vs. State of Rajasthan wherein the Hon'ble Apex Court granted bail to the applicants on the ground of non-compliance of provisions of Section 52-A of NDPS Act. He has also placed reliance on a judgement of Hon'ble Apex Court rendered in the case of Simarnjit Singh vs. State of Punjab wherein also the the applicant was granted bail on non-compliance of Section 52A of NDPS Act. Further, reliance has been placed on a judgement of Hon'ble Supreme Court in Ankur Chaudhary vs. State of Madhya Pradesh wherein there is long incarceration, then larger mandate of Article 32 of the Constitution of India shall prevail over Section 37 of the NDPS Act. It is further submitted that the applicant is having criminal history, which has been duly explained. It is also submitted that the applicant undertakes that he will not misuse the liberty, if granted. It has also been pointed out that in the wake of heavy pendency of cases in the Court, there is no likelihood of any early conclusion of trial.

4. On the other hand, learned A.G.A. has opposed the prayer for grant of bail to the applicant and it is submitted that samples have been collected immediately after the contraband was recovered and the application before the learned Special Judge was filed by the I.O. for its disposal and there is no time limit fixed for filing such application.

5. As per the allegation in the FIR, 500 kg of ganja which is huge quantity is said to have been recovered from a truck and it is alleged that the said truck was being driven by the applicant, however, it is submitted that mandatory provisions of Sections 52A of NDPS Act have not been complied with as the samples have been taken before the learned Special Judge, NDPS, Varanasi and process under Section 52A of NDPS Act has put in force after 13 months regarding certification and sampling and making inventory and photographs etc. Rules 9, 10 and 11 of the Rules published by the Union of India in the official gazette prescribe that application for taking sample before the learned

Magistrate be filed at the earliest.

6. Upon considering the totality of facts, nature and the evidence reflected from record and also taking into consideration the provision of Section 37 of the NDPS Act and the case laws supra cited by the learned counsel for the applicant and the larger manage of Article 21 of the Constitution of India and also keeping in view the fact that the applicant has been languishing in jail since 20.2.2025 without expressing any opinion on merits of the case, I find it to be a fit case for bail. Hence, the present bail application is **ALLOWED**.

7. Let the applicant- **Sheshmani Patel Alias Devraj Patel** involved in the aforesaid case crime be released on bail on his furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence.

(ii) The applicant shall not pressurize/intimidate the prosecution witnesses.

(iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 351 of B.N.S.S.

(iv) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in the trial court.

(v) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

8. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

9. It is clarified that anything said in this order is limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

(Jitendra Kumar Sinha,J.)

May 18, 2026

Abhishek