

**Court No. - 86**

**Case :-** CRIMINAL APPEAL No. - 5044 of 2018

**Appellant :-** Dinesh Yadav

**Respondent :-** State of U.P.

**Counsel for Appellant :-** Bikash Kumar Srivastava, Akanksha Kumar Jain, Bipin Kumar Tripathi, M J Akhtar, Yakub Ali

**Counsel for Respondent :-** G.A.

Hon'ble Subhash Chand, J.

(Criminal Misc. Bail Application No. 1 of 2018)

Heard learned counsel for the applicant, learned counsel for the informant and learned A.G.A. for the State and perused the record of the present bail application.

In this appeal the maximum sentence awarded by the court's below is ten years under Section 22(C) N.D.P.S Act.

Learned counsel for the applicant/appellant has submitted that no option of personal search before Gazatted Officer or Magistrate was given to the appellant/applicant, in view of the mandatory provisions of Section 50 of N.D.P.S Act. There is no independent witness of the alleged recovery. During trial the appellant/applicant was on bail. The appellant/applicant has no criminal antecedent and has served out more than two years in jail in compliance of conviction order.

Learned A.G.A vehemently opposed the contentions made by the learned counsel for the applicant/appellant.

From the perusal of the prosecution version, it is evident that on the tip of the Station Officer of the police station concerned along-with police party apprehended appellant/applicant and from whom possession alleged contraband was recovered. Keeping in view the findings of the trial court and the fact that the appeal is not likely to be heard in near future, I find it a fit case for bail.

Let applicants Dinesh Yadav, be released on bail in Sessions Trial No. 10 of 2010 (State Vs. Dinesh Yadav) arising out of Case Crime No. 14 of 2010, under Sections 22(C) N.D.P.S Act, P. S Dhebaura, District Siddharth Nagar, on his furnishing a personal bond and two reliable sureties of the like amount to the satisfaction of the court concerned.

However, realization of fine is not stayed. The appellant is directed to deposit the amount of fine as has been imposed by the trial court within a period of one month from the date of his actual release from jail.

List the appeal for hearing on its turn.

**Order Date :-** 20.1.2021

PS