
(2000) 02 AHC CK 0124
In the Allahabad High Court
Case No : Criminal Appeal No. 1777 of 1997

Om Prakash	Vs	APPELLANT
State of U.P.		RESPONDENT

Date of Decision : 08-02-2000

Acts Referred:

Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 21, 50, 8

Citation : (2000) 02 AHC CK 0124

Hon'ble Judges : I.M.Quddusi, J

Final Decision : Allowed

Judgement

I.M. Quddusi, J.—Heard learned Counsel for the appellant and learned AGA.

2. This appeal has been filed against the judgment and order dated 16th September, 1997 convicting the appellant under Section 8/21, NDPS Act and sentencing him for ten years RI and fine of Rs. 1,00,000 and in default of payment of fine the appellant shall undergo further three years RI. The appellant is in jail since 26th November, 1995.

3. Learned Counsel for the appellant, Sri VP. Srivastava, has pressed for grant of bail to the appellant.

4.1 have perused the report and the impugned judgment and order.

5. Learned Counsel for the appellant has submitted that compliance of Section 50 of the NDPS Act has not been made.

6. From the judgment and order, it is clear that a Gazetted Officer was called for the purpose of making search, but it was not of the choice of the appellant. The appellant was not asked as to whether he would like to give search before a Gazetted Officer or a Magistrate.

7. At this stage without making any comment, this Court is of the opinion that in case the appellant is acquitted ultimately, the whole purpose of filing this appeal will be defeated as at present time criminal appeals pertaining to the year 1990

are being listed for hearing and it could not be possible to hear this appeal in near future.

8. In view of the facts and circumstances of the case, this Court is of the view that the applicant shall be released on bail.

9. Let the appellant, namely, Om Prakash be released on bail in S.T. No. 11 of 1996, under Section 8/21 NDPS Act, P.S. Kotwali, District Ghazipur on his furnishing adequate sureties in accordance with law to the satisfaction of the Court concerned. The realisation of fine shall also remain stayed, provided he furnishes four sureties of Rs. 25,000 each to the satisfaction of the Court concerned.