

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 255 of 2021

Samir Kumar Pradhan

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Petitioner

Mr. R.K. Pattanaik, Advocate

Versus

***The Senior Intelligence Officer,
Directorate of Revenue
Intelligence, Bhubaneswar***

....

Opposite Party

Mr. R. Chimanka, Advocate

**CORAM:
JUSTICE SAVITRI RATHO**

ORDER

21.02.2022

Order No.

18. **I.A. No. 1196 of 2021**

1. This matter is taken up through hybrid mode.
2. Heard Mr. R.K. Pattanaik, learned counsel for the petitioner and Mr. R. Chimanka, learned counsel for the opp. party.
3. The petitioner is an accused in Special 2(a) C.C. Case No.2 of 2020 corresponding to T.R. Case No. 84 of 2020 pending in the Court of the learned Special Judge -cum- Sessions Judge, Nayagarh for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S Act.
4. This I.A. has been filed for releasing the petitioner on interim bail for a period of eight weeks from the date of his release in order to assist his wife who has undergone an operation but the documents annexed to the I.A. do not indicate that she has undergone any surgical operation. The documents indicate that multiple fibroid uterus has been detected in the ultrasound of Smt. Soudamini Pradhan and that NDVH SA has been planned on 16.11.2021.

5. This I.A. has been filed on 18.11.2021. In the meanwhile, three months have elapsed but no documents have been filed till date regarding any operation conducted on the wife of the petitioner.

6. Mr. R. Chimanka, learned counsel for the opp. party had sought for adjournment to obtain instructions regarding the I.A. and an objection affidavit has been filed by Mr. Debotosh Chatterjee working as Deputy Director in Directorate of Revenue Intelligence, Bhubaneswar. In the said affidavit the allegations against the petitioner, the date of his arrest, rejection of his application under Section 437 of Cr.P.C. by the learned Special Judge -cum- Sessions Judge, Nayagarh on 20.02.2020 and rejection of another application on 04.01.2021 have been mentioned. In the objection, paragraphs-7 and 8 are extracted herein below:-

“7. That, the petitioner filed application for bail in BLAPL No.4600 of 2020 before this Hon’ble High Court on health ground of his wife Smt. Soudamini Pradhan and in pursuance to order dated 10.08.2020, of the Hon’ble High Court, the Investigating Officer inquired about the health status of wife of the petitioner and intimated same to the Hon’ble Court. However, the bail application in BLAPL 4600 of 2020 was dismissed on 09.12.2020 by the Hon’ble High Court as the bail application in BLAPL 4600 of 2020, was withdrawn by the petitioner. Subsequently, another application in IA No. 1231 of 2020 was dismissed by the Hon’ble Court vide order Dt. 08.01.2021 as the prayer of interim bail in a disposed bail application is not maintainable.”

8. That, another application for interim bail was filed by the petitioner in IA No. 45 of 2021 and in pursuance to order dated 23.08.2021, of the Hon’ble High Court, the Investigating Officer inquired about the authenticity of the medical document i.e.: Prescription issued by Dr. Sibani Rout, MD (O&G) to Smt. Soudamini Pradhan and intimated same to the Hon’ble High Court. Subsequently,

vide order Dt. 31.08.2021, interim bail was granted by the Hon'ble High Court to the petitioner for the period from 02.09.2021 with a direction to surrender before the learned trial court on 27.09.2021 and the IA No. 45 of 2021 was disposed of. After availing the interim bail for period as per order Dt. 31.08.2021 in I.A. No. 45 of 2021, the petitioner had surrendered."

In paragraph 9 of the objection affidavit, the filing of the interim application has been mentioned but there is no averment in the objection regarding health condition of the petitioner's wife or any operation undergone by her. It is not known why time was sought for by the learned counsel for the opp. party to obtain instructions when no instructions have been obtained and averments have been made regarding filing of earlier bail application and grant of interim bail on the basis of record only.

7. However, since details of any surgery or surgical operation undergone by the wife of the petitioner has not been indicated anywhere in interim application or any supporting document filed thereafter, I am not inclined to allow this I.A. for interim bail.

8. The I.A. is accordingly dismissed.

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(Savitri Ratho)
Judge

19. **BLAPL No. 255 of 2021**

1. Heard Mr. R.K. Pattanaik, learned counsel for the petitioner and Mr. R. Chimanka, learned counsel for the opp. party.

2. This is an application under section 439 of Cr.P.C. for grant of bail to the petitioner- Samir Kumar Pradhan in connection with Special 2(a) C.C. Case No.2 of 2020 corresponding to T.R. Case

No. 84 of 2020 pending in the Court of learned Special Judge -cum- Sessions Judge, Nayagarh for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S Act.

3. Mr. learned counsel for the petitioner submits that the petitioner is the sole accused in the case and is in custody since more than 2 years and even though charge has been framed but not a single witness has not been examined in this case.

4. Considering the quantity of ganja seized and the mandate of Section 37 of the NDPS Act, I am not inclined to release the petitioner on bail. But, however, considering the fact that the petitioner is in custody since more than two years, I request that the learned Special Judge -cum- Addl. Sessions Judge, Nayagarh (as Mr. Pattanaik, learned counsel for the petitioner submits that the case has been transferred to this Court in the meanwhile) to take steps to complete the trial within a period of 6 months from the date of production of certified copy if there is no other legal impediment.

5. The BLAPL is accordingly dismissed.

6. It is open to the petitioner to move the trial Court for bail afresh, in case there is undue delay in completion of trial.

7. Urgent certified copy of this order be granted on proper application.

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(Savitri Ratho)
Judge

Sukanta