

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.438 of 2022

1. Deepak Digal

2. Gouttam Digal

....

Petitioners

Mr.B.R. Mohanty, Advocate

-versus-

State of Odisha

....

Opp. Party

*Mr.Arupananda Das,
Addl. Govt. Advocate*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
22.07.2022**

Order No.

06. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioners and the learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with T.R. Case No.94 of 2020 arising out of Sahidnagar P.S. Case No.59 of 2020 pending in the Court of learned Sessions Judge, Khurda at Bhubaneswar for offence punishable under section 20(b)((ii)(C) of N.D.P.S. Act.

The petitioners moved an application for bail before the Court of learned Sessions Judge, Khurda at Bhubaneswar, which was rejected on 13.01.2022.

Learned counsel for the petitioners submits that the petitioners are in judicial custody since 05.02.2020 and earlier the petitioner no.1 approached this Court for bail in BLAPL No. 2240 of 2020 and petitioner no.2 approached this Court in BLAPL No.2239 of 2020 and both the bail applications were rejected as per order dated 07.12.2020 and the learned trial Court was directed to expedite the trial and the petitioners were given liberty to renew their prayer for bail after examination of the material witnesses. It is submitted by the learned counsel for the petitioners that ten witnesses have been examined so far in the learned trial Court and therefore, the petitioners, who are residents of the district of Kandhamal, may be granted interim bail for some period.

As per order dated 30.06.2022, learned trial Court has furnished the status report from which it indicates that out of twenty charge sheet witnesses, ten witnesses have been examined and one witness has been declared hostile by the prosecution and since one of the co-accused, namely, Sk.Jamil, who was on interim bail, did not surrender in time, non-bailable warrant of arrest has been issued against him which is yet to be executed.

Learned counsel for the State opposed the prayer for bail on the ground that commercial quantity

of ganja was seized from the possession of the petitioners and in view of the bar under section 37 of the N.D.P.S. Act, they are not entitled to be released on bail.

Considering the submissions made by the learned counsel for the respective parties, in view of the available materials on record and the bar under section 37 of the N.D.P.S. Act, while not inclining to release the petitioners on bail on merit, I am inclined to release the petitioners on interim bail for a period of three months from the date of release. The petitioners shall surrender before the learned trial Court immediately on expiry of the three months period.

For the above period, let the petitioners be released on interim bail in the aforesaid case on furnishing bail bond of Rs.50,000/- (rupees fifty thousand) each with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper including the conditions that while on interim bail, the petitioners shall not try to come in contact with the prosecution witnesses or tamper with the evidence, shall not indulge in any criminal activities, shall appear before the learned trial Court on each date to which the case would be posted for trial

Violation of any of the terms and conditions shall entail cancellation of interim bail.

Accordingly, the BLAPL is disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

PKSahoo

