

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3517 of 2022

Akash Nayak

.... ***Petitioner***
Mr.S.K.Samantray, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr.P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

18.05.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as the learned Additional Standing Counsel for the State.
3. This is an application under Section 439 of the Criminal Procedure Code filed by the Petitioner to release him on regular bail in connection with Excise EI & EB, Unit-II, (CD) PR No.09/2022-2023 corresponding to 2(a) C.C.Case No.13 of 2022 pending in the Court of the learned District & Sessions Judge, Cuttack for commission of an alleged offence under Section 21(b) of the N.D.P.S.Act..
4. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in custody since 08.04.2022. It is also submitted by the learned counsel for the Petitioner that nothing has been recovered from the possession of the Petitioner and the mandatory provisions of the N.D.P.S.Act has not been followed in this case. It is also submitted by the learned counsel for the Petitioner that the bar under Section 37 of the N.D.P.S.Act is not attracted in the

present case as the quantity of recovered material does not come under the purview of the commercial quantity. It is further submitted by the learned counsel for the Petitioner that since the Petitioner is the permanent resident of Cuttack district, there is no question of absconding or fleeing from the hands of justice and in the event of his release on bail he undertakes to appear before the trial court on each date of posting.

6. Learned counsel for the State on the other hand opposes the prayer for bail and submits that such type of cases are rising every day in the locality and no leniency should be shown to the Petitioner while considering the prayer for bail of the Petitioner. However he submits that in the event of his release, stringent conditions may be imposed on the Petitioner.

7. Having heard learned counsel for the parties and considering the nature and gravity of the allegation as well as the period of custodial detention of the Petitioner and the fact that nothing has been recovered from the possession of the Petitioner, this court is inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions

- i) he shall appear before the concerned Police Station once in a week preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.
- ii) shall cooperate with the trial of the case and shall appear in trial court on each and every date to which the case is posted.
- iii) shall not indulge in any offence of similar nature
- iv) shall not tamper with the prosecution evidence while on

bail.

- v) shall not influence or threaten any prosecution evidence while on bail.
- vi) Violation of any of the terms and conditions shall entail cancellation of bail.

8. It is further directed that the bail granted to the Petitioner is subject to the condition that learned court below shall verify whether the Petitioner has any criminal antecedents of similar nature. In the event it is found that the Petitioner has any criminal antecedent of similar nature, this bail order shall automatically stands revoked.

9. The Bail Application is accordingly disposed of.

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

RKS

