

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3839 of 2022

Biswajit Ghosh

....

Petitioner

Mr. Amlan Shakti Paul, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr.M.K. Mohanty, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

18.05.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Bhubaneswar GRPS Case No.127 of 2021, corresponding to T.R. No.571 of 2021, pending in the court of learned Sessions Judge, Khurda at Bhubaneswar, for commission of alleged offences under Sections 20(b)(ii)(C) of N.D.P.S. Act.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.
4. Learned counsel for the Petitioner submits that the Petitioner is in custody since 26.12.2021. It is further submitted that after completion of investigation, police has filed charge-

sheet against the present Petitioner. He submits that Petitioner is an innocent person and he is no way connected in the alleged crime and only to harass him, police has implicated the present Petitioner in the alleged crime. Since the quantity of contraband ganja seized by the police is less than the commercial quantity, Section 37 of the N.D.P.S. Act is not applicable to the case of the Petitioner. It is submitted that in the event Petitioner is released on bail, he shall abide by the terms and conditions fixed by this Court. Accordingly, he urges for bail of the present Petitioner.

5. Learned counsel for the State vehemently opposes the bail application of the Petitioner on the ground that the case of illegal trafficking of contraband article is increasing rapidly in the State of Odisha, therefore, no leniency should be shown to the accused person involving in such matters. However, he submits that a quantity of 14 kgs. of contraband ganja has been recovered from the possession of the Petitioner. Moreover, the Petitioner is a man of West Bench, once he is released on bail, he will not cooperate in the investigation and fled away to his native place. Accordingly, he prays for rejection of the bail application of the Petitioner.

6. Having heard learned counsel for the parties and considering the custodial detention of the Petitioner and the peculiar facts and circumstances of the case, this Court is inclined to release the Petitioner on bail subject to stringent conditions. Let the Petitioner be released on bail subject to

furnishing bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local sureties 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 not indulge in similar nature of offence;
- ii) He shall appear before the trial court on each and every date and shall cooperate for early conclusion of trial;
- iii) He shall not tamper with the prosecution evidence and shall not make any attempt to influence or threaten the witnesses;
- iv) He shall provide his address as well as his phone number to the concerned Police Station and keep the same updated in the event the same is changed in future;
- v) He shall appear before the concerned Police Station once in a fortnight preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.
- vi) He shall not leave the jurisdiction of the court without prior permission of the trial court;

7. 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 order shall automatically stand revoked.

9. With the aforesaid observation the BLAPL stands disposed of.

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

(A.K. Mohapatra)
Judge

U.K.Sahoo

