

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3858 of 2022

Subal Kanhar

....

Petitioner

Mr. Amulya Ratna Panda, 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 Khurda Road GRPS Case No.9 of 2022, corresponding to T.R. Case No.31 of 2022, pending in the file of learned Sessions Judge-cum-Special 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 22.01.2022. It is further submitted that the Petitioner has been falsely implicated in the case. It is

submitted that the contraband article was seized near the Railway station and it has not been seized from the conscious possession of the Petitioner and therefore, the bar under Section 37 of the N.D.P.S. Act is not applicable to the case of the Petitioner. He also submits that Petitioner is the local resident of the area, therefore, there is no chance of absconding or avoiding the trial of the case. 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. Moreover, a quantity of 17 Kgs. 600 grams of contraband ganja has been recovered from the possession of the Petitioner. 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 solvent 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