

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5087 of 2022

Sk. Iphtekhar Tulla

.... ***Petitioner***
M/s. G.K.Khilar, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.M.Mishra, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

18.11.2022

Order No.

- 06.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Baselisahi P.S. Case No. 30 of 2022 corresponding to Special Case No.28 of 2022 pending in the Court of learned Special Judge, Puri for commission of offence punishable U/Ss. 21(C) and 29 of the N.D.P.S. Act on the allegation of possessing commercial quantity of brown sugar.
 3. In the course of hearing of the bail application, Mr.G.K.Khilar, learned counsel for the petitioner submits that the petitioner is a innocent person and he has no connection with commission of crime and nothing was recovered from the possession of the petitioner. It is further submitted that co-accused Akshaya Kumar @ Papu Pandey standing on similar footing has already been granted bail and the facts of the case itself discloses that Section 37 of N.D.P.S. Act cannot be attracted against the petitioner to deny him bail. It is, accordingly, prayed to grant bail to the petitioner.
 4. On the contrary, learned counsel for the State by placing the facts submits that the seizure list indicative of recovery of empty

polythene packets during personal search of the petitioner which itself goes a long way to say that the petitioner is also a drug peddler and commercial quantity of brown sugar having seized in this case, Section 37 of N.D.P.S. Act is squarely attracted against the petitioner and, thereby, the petitioner shall not be released on bail.

5. Considering the rival submissions made, nature and character of accusations as also the gravity of offence and regard being had to the seizure of 356 grams of brown sugar in this case and the personal search of the petitioner allegedly discloses seizure of some empty polythene packets and taking into consideration other circumstance in the entirety and the mandatory provision of Section 37 of N.D.P.C. Act, this Court does not feel it proper to grant bail to the petitioner. Hence, the prayer for bail of the petitioner stands rejected.

6. Trial be expedited as requested by the learned counsel for the petitioner.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

Kishore

(G. Satapathy)
Judge