

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5178 of 2022

Charan Prasad Kurmeswar

....

Petitioner

Mr. A. Das, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. P.K.Patnaik, A.G.A.

**CORAM:
JUSTICE G. SATAPATHY**

ORDER

12.12.2022

Order No.

- 05.
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 Sonapur P.S. Case No.117 of 2015 corresponding to Spl. G.R. Case No.16 of 2015 pending in the Court of learned Addl. Sessions Judge-cum-Special Judge, Sonapur for commission of offence punishable U/Ss.279/307 of IPC read with Section 20(b)(ii)(C) of the N.D.P.S. Act, on the allegation of possessing 237.5Kgs. of contraband Ganja.
 3. In the course of hearing of the bail application, Mr. A. Das, learned counsel for the petitioner submits that although the allegation is for possessing commercial quantity of contraband Ganja, but the trial is yet to be completed, even after more than seven years of detention of the petitioner in judicial custody and 4 out of 29 charge

sheet witnesses have been examined till today, which exclude the possibility of disposal of the case in near future. On the aforesaid submissions, learned counsel for the petitioners prays to grant bail to the petitioner.

4. On the contrary, Mr. P.K. Pattnaik, learned A.G.A. opposes the bail application of the petitioner vehemently by inter alia contending that the release of the petitioner on bail would encourage him to repeat the offence again and again. It is accordingly prayed to reject the bail application of the petitioner.

5. Perused the report as called for by this Court in which the learned Addl. District and Sessions Judge-cum-Special Judge, Sonapur has furnished her report stating therein that the petitioner is in custody since 27.07.2015. Further, the report discloses that 4 out of 29 charge sheet witnesses have already been examined till date, but it appears that the trial in this case has suffered delay on account of outbreak of Covid-19 pandemic and non-participation of local Bar Members one or other pretext.

6. In view of the above report indicating the period of custody of the petitioner since 27.07.2015, which is around more than seven years till date and keeping in view of the personal liberty of the petitioner with utmost priority and taking into consideration the unlikelihood of trial being completed in near future as admittedly only 4 out of 29 charge sheet witnesses have been examined till today even after little more than seven years of judicial custody of the petitioner and regard being had to the fact that the petitioner has

already undergone more than half of the minimum sentence of imprisonment for the offence alleged against him and the law laid down by Apex Court in ***Supreme Court Legal Aid Committee(Representing under trial prisoners) Vrs. Union of India; (1994) 6 SCC 731***, this Court passes an order in favour of the petitioner despite the rigors of Section 37 of the N.D.P.S. Act granting bail to him in this case.

7. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on furnishing bail bonds in the sum of Rs.1,00,000/-(Rupees One Lakh) with two local sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall not commit similar type of offence while on bail and that the petitioner shall not leave the jurisdiction of the trial Court without prior permission till conclusion of the trial and that the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with and that he shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case and that the petitioner shall report attendance before the Jurisdictional Police Station once in a week for six months preferably on Monday in between 12 Noon to 1 PM. The I.I.C. of Jurisdictional Police Station shall not detain the petitioner unnecessarily after recording his attendance beyond the time as stipulated.

It is clarified that the Court in seisin of the case will be at

liberty to cancel the bail of the petitioner without further reference to this Court, if any of the above conditions are violated or a case for cancellation of bail is otherwise made out.

8. Accordingly, the BLAPL stands disposed of.

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

(G. Satapathy)
Judge

Subhasmita

