

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4246 of 2021

Balaram Behera @ Panda

.... ***Petitioner***
Mr. U. Barik, Advocate

Versus

State of Odisha

.... ***Opposite Party***
Mr. P.K. Mohanty, A.S.C.

CORAM:
JUSTICE SAVITRI RATHO

ORDER

03.01.2022

Order No.

- 03.
1. This matter is taken up through hybrid mode.
 2. Heard Mr. U. Barik, learned counsel for the petitioner and Mr. P.K. Mohanty, learned Addl. Standing Counsel for the State.
 3. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner- Balaram Behera @ Panda in connection with Gosaninuagaon P.S. Case No.40 of 2021 corresponding to G.R. Case No. 09 of 2021(N) pending in the Court of the learned Sessions Judge - cum- Special Judge, Ganjam, Berhampur for commission of offence punishable under Sections 20(b)(ii)(C)/25 of the N.D.P.S. Act.
 4. The petitioner had moved an application for bail before the Court of learned Special Judge, Ganjam, Berhampur which was rejected on 20.04.2021.
 5. The prosecution allegations in brief are that on 16.03.2021 after receipt of prior information, the petitioner and the co-accused while carrying contraband ganja on a Honda Activa were apprehended by the S.I. of police Gosaninuagaon Police Station. After weighment, the total weight of two packets of ganja came to be 21 kgs. 625 grams (11.720 kgs. from one bag and 11.355 kgs. from the other bag).
 6. Mr. Barik, learned counsel for the petitioner submitted that the petitioner is in judicial custody since 17.03.2021 and the quantity of

contraband ganja alleged to have been seized from the individual possession of the petitioner is 10.270 kgs. which is lesser than commercial quantity and the quantity of contraband ganja seized from the co-accused is 11.355 kgs. and the co-accused has been released on bail in BLAPL No.4245 of 2021 vide order dated 16.12.2021 passed by this Court. It is further submitted that though two separate seizure lists were prepared relating to the seizure of ganja from the petitioner while submitting charge sheet, the quantities were clubbed together in order to attract the bar under Section 37 of the N.D.P.S. Act. Learned counsel for the petitioner has produced the separate seizure lists prepared by the Investigating Officer in respect of the petitioner and the co-accused and the copy of the bail order of the co-accused, which are taken on record.

7. Mr. P.K. Mohanty, learned Addl. Standing Counsel for the State opposed the prayer for bail.

8. Considering the submissions of learned counsel for the respective parties, the nature of accusation against the petitioner, release of co-accused persons on bail, the period of detention of the petitioner in judicial custody and non attraction of the bar Section-37 of the N.D.P.S., I am inclined to allow this application for bail.

9. Let the petitioner- Balaram Behera @ Panda be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, including the condition that he will not indulge in any criminal activity while on bail.

10. The BLAPL is accordingly disposed of.

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

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(Savitri Ratho)
Judge