

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5329 of 2022

Bishal Sharma

.... ***Petitioner***
Mr. U.C. Jena, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
25.07.2022

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the F.I.R., case diary and other relevant documents as well as statement of the witnesses.
 3. This is an application under Section 439 of the Criminal Procedure Code.
 4. The Petitioner is an accused in Special Case No.55 of 2021 arising out of Bhadrak Rural P.S. Case No.200 of 2020 pending in the court of learned Special Judge, Bhadrak for commission of offence punishable under Sections 21(c)/29 of the N.D.P.S. Act.
 5. The prosecution case, in a nutshell, is that on 23.04.2021 at about 10.45 A.M. informant along with his Police Staffs of enforcement duty N.H. 616 at Charmpa under Dhamara Railway Over Bridge while performing M.V. checking we detected one Black Hero Honda Splender Motor Cycle without number with a rider and

pillion riders without helmets were coming from Balasore side to Bhadrak out police team signaled to stop them but the rider of the said Scooty seeing the police party did not obey out signal and rushed towards Bhadrak side speedily thereafter out police party chased the Sctooty and stopped persons personal verification seized from one Muna @ Sk. Babulu 260 grams of Brown Sugar. Hence, this case.

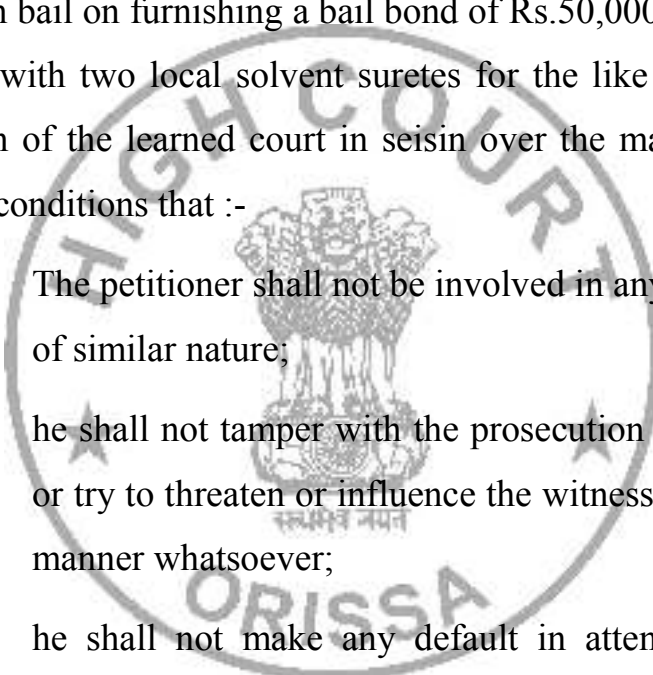
6. It is submitted by learned counsel for the petitioner that the petitioner is in custody since 27.04.2021 and the charge-sheet has been submitted by the police in the meantime.

7. Further, learned counsel for the petitioner submits that earlier allegation, the petitioner had approached this Court by filing BLAPL No.6432 of 2021 which was disposed of by granting liberty to the petitioner to move afresh before be learned court below after filing of charge-sheet. After withdrawal of the first bail application of the petitioner, moves for bail before the learned court below after filing of the charge-sheet. The court below vide order dated 16.05.2022 passed in Special NDPS Case No.55 of 2021 again has rejected the bail application of the petitioner.

8. Referring to the seizure list under Annexure-3, learned counsel for the petitioner submits that the seizure list clearly reveals that the said brown sugar was seized from the exclusive and conscious possession of accused Muna @ Sk. Babulu. In such view of the matter, learned counsel for the petitioner argues that no contraband article was recovered or seized from the exclusive and conscious possession of the present petitioner. He further submits that the petitioner does not have any criminal antecedents of similar nature of offence.

9. Learned Additional Standing Counsel for the State vehemently opposes the prayer for bail of the Petitioner and submits that the present case arose out Jaleswar P.S. in the district of Balasore. He further submits that in Balasore and Bhadrak area illegal trafficking of contraband articles is rising day-by-day and no leniency should be shown to the petitioner or similarly situated persons.

10. Having heard learned counsel for the parties and considering the facts and circumstances of the case and the period of custodial detention of the petitioner, it is directed that let the petitioner be released on bail on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) with two local solvent sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to following conditions that :-

- 
- The seal of the Orissa High Court is a circular emblem. It features a central figure, likely a deity or a royal figure, seated on a throne. The figure is surrounded by a wreath. Below the figure, there is a banner with text in Odia. The words "HIGH COURT" are written in a semi-circle at the top, and "ORISSA" is written in a semi-circle at the bottom. There are two stars on either side of the central figure.
- I. The petitioner shall not be involved in any offence of similar nature;
 - II. he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;
 - III. he shall not make any default in attending the court during trial on each date without fail; and
 - IV. he shall appear before the concerned Police Station once in a week preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of trial.

Violation of any of the terms and conditions shall entail cancellation of bail.

11. It is open for the court in seisin over the matter to impose

other conditions as may be deemed just and proper.

12. 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 antecedents of similar nature, this bail order shall automatically stand revoked.

13. The Bail Application is accordingly disposed of.

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

Jagabandhu

