

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5443 of 2022

Dharam Nath

.... ***Petitioner***
M/s. S.Mitra Advocate

-versus-

State of Orissa

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

CORAM:

JUSTICE G. SATAPATHY

ORDER

15.11.2022

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 EI&EB UNIT-2 Excise Cuttack PR Case No. 109 of 2020 corresponding to 2(a) CC No. 24 of 2020 pending in the Court of learned Sessions Judge-cum-Special Judge, Cuttack for commission of offence punishable U/Ss. 20(b)(ii)(C) of the N.D.P.S. Act on the allegation of transporting 30Kgs of contraband Ganja along with co-accused person by holding the same separately in jerry bags.
 3. In the course of hearing of the bail application, Mr.S.Mitra, learned counsel for the petitioner submits that although the petitioner has been charged for offence punishable U/Ss. 20(b)(ii)(C) of the N.D.P.S. Act but fact remains that the petitioner has been falsely implicated in this case and if the prosecution allegation is considered to be true, no offence involving commercial quantity is made out against the petitioner in view of the fact that the prosecution allegation reveals that the petitioner was carrying 15Kgs. of contraband Ganja in a separate jerry bag. It is further submitted that

the petitioner is inside jail custody since 11.12.2020 but trial is yet to be concluded and co-accused standing on similar footing has already been granted bail by this Court in BLAPL No. 752 of 2022 disposed of on 20.05.2022 and the petitioner, therefore, may kindly be granted bail.

4. In reply, learned counsel for the State submits that the allegations on record reveals transportation of 30Kgs. of contraband Ganja which is coming under commercial quantity and, therefore, 37 of N.D.P.S. Act would operate as a bar for release of petitioner on bail and he, accordingly, prays to reject the bail application of the petitioner.

5. Considering the rival submissions made, nature and character of accusations leveled against the petitioner, the quantity of contraband Ganja allegedly recovered from the petitioner individually and absence of charge for offences U/Ss. 29 and 25 of the N.D.P.S. Act against the petitioner and keeping in view the other circumstance in entirety and regard being had to the pre-trial detention of the petitioner since 11.12.2020 and taking into consideration release of co-accused person on bail, this Court admits the petitioner to bail.

6. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on furnishing a cash surety of Rs.10,000/- (ten thousand) in addition to bail bonds of Rs.1,00,000/- with two solvent 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.

7. It is clarified that the Special Judge is 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.

Kishore

