

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5843 of 2022

Jayadev Pramanik & another

.... *Petitioners*
M/s. A.K.Das, Advocate

-versus-

State of Orissa

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

CORAM:

JUSTICE G. SATAPATHY

ORDER

03.11.2022

Order No.

- 02.
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 Petitioners for grant of bail in connection with P.R. No. 42/2022-2023 corresponding to SPL Case No.136 of 2022 pending in the Court of learned Sessions Judge-cum-Special Judge, Balasore for commission of offence punishable U/Ss. 20(b)(ii)(C) of the N.D.P.S. Act on the allegation of possessing 22 Kgs. of contraband Ganja.
 3. In the course of hearing of the bail application, learned counsel for the petitioners submits that although the Excise staff has shown the petitioners to have committed an offence U/S. 20(b)(ii)(C) of the N.D.P.S. Act but in reality the excise staff has over zealously implicated the petitioners in this case. It is further submitted that if the allegations on record are considered to be true, the petitioners having allegedly found not in joint possession of 22Kgs. of contraband Ganja, compliance U/S. 37 of N.D.P.S. Act is not required but the Excise staff in order to defeat the personal liberty of the petitioners has shown them to have jointly possessed 22 Kgs.

of contraband Ganja. It is further submitted that the petitioners having detained in custody since 09.06.2022 and trial having not commenced till today, the petitioners may kindly be released on bail on any condition as deems fit and proper.

4. On the other hand, learned counsel for the State submits that since the petitioners were found to have possessed contraband Ganja to the tune of 22 Kgs., therefore, Section 37 of N.D.P.S. Act is squarely attracted against the petitioners and they having not satisfied the twin conditions of Section 37 of N.D.P.S. Act, their bail application may be required to be rejected on that score alone.

5. Considering the submissions advanced on behalf of the parties and taking into consideration the manner and circumstance of seizure and keeping in view the period of detention of the petitioners in custody since 09.06.2022 as also the quantity of contraband and number of accused persons allegedly involved in this case and regard being had to the object of bail being not punitive, rather protecting the individual liberty of a person and the fact that no criminal antecedent of similar nature has been reported against the petitioners and further taking into account the nature and character of materials collected in support of the offence, this Court considers it proper to grant bail to the petitioners.

6. Hence, the prayer for bail of the petitioners is allowed and the Petitioners be released on bail on furnishing bail bonds of Rs.25,000/- each 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 petitioners shall not commit similar type of offence while on bail and that the petitioners shall not leave the jurisdiction of the trial Court without prior permission till conclusion of the trial and that the petitioners shall attend the trial Court on each date of posting of the case unless their attendance is dispensed with and that the petitioners shall also attend the jurisdictional Excise Office i.e. Balasore-II Excise Station once in a month preferably on second Saturday for three months.

7. Accordingly, the BLAPL stands disposed of.

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

Kishore

