

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5911 of 2022

Nanda Kishore Sahoo @ Nandu

....

Petitioner

Mr. R.K. Pattanaik, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. P.K. Pattnaik, AGA

**CORAM:
JUSTICE G. SATAPATHY**

**ORDER
23.11.2022**

Order No.

- 06.
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 Khurda P.S. Case No.237 of 2022 arising out of T.R. Case No.50 of 2022 pending in the Court of learned Addl. Sessions Judge-cum-spl. Judge under NDPS Act, Khurda for commission of offences punishable under Sections 21(C)/29 of N.D.P.S. Act, on the allegation of possessing 310 grams of brown sugar in his residential house.
 3. In the course of hearing of the bail application, Mr. R.K. Pattanaik, learned counsel for the petitioner submits that the present petitioner is no way connected with commission of alleged offence and his involvement in the present case is purely imaginary, but the fact remains that the seizure list indicate about recovery of 312.09

grams of brown sugar from the exclusive possession of one Raja Pattanayak and merely because the name of the petitioner is mentioned in the Column-3 of the seizure list, it cannot be said that the petitioner was in exclusive possession of the brown sugar so as to deny him bail in view of the mandate of Section 37 of N.D.P.S. Act which is not at all applicable against the present petitioner. It is accordingly prayed by him to enlarge the petitioner on bail.

4. On the contrary, learned counsel for the State submits that the FIR itself indicative of recovery of commercial quantity of brown sugar from the residential house of the petitioner and, thereby, at this stage, it cannot be said that the petitioner is not in exclusive possession of the brown sugar and Section 37 of N.D.P.S. Act would definitely attract as a Bar for release of the petitioner on bail. It is accordingly prayed by him to reject the bail application of the petitioner.

5. Considering the rival submissions made, nature and gravity of accusations raised against the petitioner as also the gravity of offence and taking into consideration the allegation of seizure of brown sugar of commercial quantity from the house of the petitioner and the fact that when the learned counsel for the State has opposed the release of petitioner on bail, this Court on conspectus of materials on record at this stage of the case considers it impossible to record satisfaction that there are reasonable grounds for believing that the petitioner is not guilty of the offence and he is unlikely to commit offence while on bail and regard being had to the amount of brown sugar seized in this case and the mandate of Section 37 of N.D.P.S. Act, this Court does not feel it proper to grant bail to the petitioner.

6. Hence, the prayer for bail of the petitioner stands rejected.
7. Accordingly, the BLAPL stands disposed of.
8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subhasmita

