

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5980 of 2022

Sushant @ Susanta Kumar Sahoo **Petitioner**
Mr. T.K. Mohanty, Advocate

-versus-

State of Orissa **Opp. Party**
Mr. R. Triapthy, A.S.C.

CORAM:
JUSTICE G. SATAPATHY

ORDER

07.12.2022

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 Special Task Force P.S. Case No.37 of 2021 corresponding to CT (Special) NDPS Case No. 18 of 2021 pending in the file of learned Judge, Special Court, Dhenkanla for commission of offences punishable U/Ss. 21(c)/29 of NDPS Act, on the allegation of possessing 1Kg 090grams of brown sugar along with co-accused persons.
 3. In the course of hearing of the bail application, Mr. D. Mohapatra, learned counsel for the Petitioner submits that the Petitioner has been implicated in this case only on the basis of confession of co-accused which is inadmissible in the eye of law as held by Hon'ble Apex Court in ***Tofan Singh Vrs. State of Tamil Nadu; (2020) 80 OCR (SC) 641***. It is further submitted that the Petitioner was never apprehended from the spot and out of the criminal antecedents shown against the Petitioner, he has been

acquitted in one case, but in other case, he is on bail and, thereby, such criminal antecedents would not stand in the way of grant bail to the Petitioner. It is also submitted by the learned counsel for the Petitioner that the Petitioner has been granted interim bail, but he has never misused the liberty so granted to him and he voluntarily surrendered to the custody after availing the interim bail and, therefore, the Petitioner may kindly be released on bail.

4. On contrary, Mr. R. Tripathy, learned A.S.C. submits that the Petitioner has never been arraigned as an accused solely on the basis of confession, rather he has been apprehended from the spot and his name finds place in the FIR and further, the criminal antecedents as admitted by the Petitioner itself discloses that the Petitioner is unable to fulfill the condition as mandated under section 37 of NDPS Act and thereby, the Petitioner cannot be released on bail.

5. Considering the rival submissions made, the nature and gravity of accusations raised against the Petitioner as also the gravity of offence alleged and taking into consideration the quantity of brown sugar seized in this case to the tune of 1Kg 090 Grams and the specific bar under section 37 of NDPS Act and regard being had to the fact that when the bail application of the Petitioner is opposed to by the learned Additional Standing Counsel, this Court on a conspectus of materials placed on record considers it difficult to record satisfaction that there are reasonable grounds for believing that the Petitioner is not guilty of such offence and he is unlikely to commit any offence while on bail, more particularly when Nandankanan P.S. case No. 1 of 2022 is pending against the Petitioner for offence under section 20 b(ii) (C) and 29 of NDPS Act which relates to transaction of commercial quantity of contraband Ganja, this Court, therefore, considers it undesirable to grant bail to the Petitioner.

6. Hence, the bail application 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

Priyajit

