

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6058 of 2022

Nibash Digal and another ***Petitioners***

Mr. Parsuram Das, Advocate

-versus-

State of Odisha

.... ***Opposite Party***

Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

28.07.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners 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 petitioners are accused in C.T. Case No.36 of 2021 arising out of Baliguda P.S. Case No.113 of 2021 pending in the court of learned Special Judge-cum-Additional District and Sessions Judge, Baliguda for commission of offence punishable under Sections 20(b)(ii)(C)/25/29 of the N.D.P.S. Act.
5. It is submitted by the learned counsel for the petitioners that the petitioners are languishing in custody since 15.07.202 and after completion of investigation, the Investigating Agency has filed charge sheet in this case. It is further submitted by the learned

counsel for the petitioners that at the place of occurrence, three persons were present including the petitioners and from them two packets were recovered containing 50 kgs. and 30 kgs. of contraband ganja. It is also submitted by the learned counsel for the petitioners that since the petitioners are permanent inhabitants of Kandhamal district, there is no chance of absconding or fleeing from receiving justice and in the event of their release, he will appear before the trial court on each date of posting of the case and shall abide by the terms and conditions that may be imposed by this Court.

6. Learned Additional Standing Counsel vehemently opposes the prayer for bail of the petitioners and submits that illegal trafficking of contraband articles is rising day by day and no leniency should be shown to the petitioners or similarly situated persons.

7. Having heard learned counsel for the parties, considering the surrounding circumstances of the case and the period of custodial detention of the petitioners, I am inclined to grant bail to the petitioners and it is directed that let the petitioners be released on bail in the aforesaid case on furnishing a bail bond of Rs.30,000/- (rupees thirty thousand) each with one local solvent surety each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions:-

- i) The petitioners shall not indulge themselves in any similar nature of offence;
- ii) they shall appear before the trial court on each and every date fixed by the trial court till conclusion of trial;
- iii) they shall not tamper with the prosecution

evidence;

- iv) they shall not influence or threaten any prosecution witnesses while on bail; and
- v) they shall appear before the concerned Police Station once in a fortnight preferably on Sunday in between 10 A.M. to 1 P.M. till conclusion of trial.

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

8. It is open for the court in seisin over the matter to impose other conditions as may be deemed just and proper.

9. It is further directed that the bail granted to the petitioners is subject to the condition that learned court below shall verify whether the petitioners have any criminal antecedents of similar nature. In the event it is found that the petitioners have any criminal antecedents of similar nature, this bail order shall automatically stand revoked.

10. The Bail Application is accordingly disposed of.

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

(A.K. Mohapatra)
Judge