

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5155 of 2021

Pradip Das @ Pradeep

.... ***Petitioner***
M/s.J.K.Rout, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.S.R.Roul, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

22.09.2022

Order No.

- 08.
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 Umerkote P.S. Case No.212 of 2020 corresponding to T.R. Case No.32 of 2020 pending in the Court of learned Addl. District & Sessions Judge -cum-Special Judge, Umerkote for commission of offence punishable U/Ss. 20(b)(ii)(C) and 29 of NDPS Act on the allegation of consciously possessing 105Kg. and 676 grams of contraband Ganja.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner has been implicated in this case solely on the basis of confession of co-accused which is inadmissible in the eye of law and similarly situated co-accused persons have already been released on bail and therefore, the principle of parity be extended to the petitioner. It is also submitted by the learned counsel that the petitioner has not been apprehended from the spot and all the allegations levelled against him are false and motivated one. It is also submitted that the petitioner has no criminal antecedent and he having detained in custody without any rhyme or reason, may kindly be enlarged on bail.
 4. On contrary, learned counsel for the State by placing the statement of one witness Pratap Malick submits that the present petitioner has not

been implicated on the confession of co-accused person and commercial quantity of contraband Ganja has been recovered from the petitioner and thereby, applying the stipulation contained U/S 37 of the N.D.P.S. Act, bail is not admissible to the petitioner nor is he situated similarly with co-accused persons released on bail.

5. After going through the allegations on record upon hearing the parties, there appears allegation against the petitioner for possessing of contraband Ganja to the tune of 105Kg. and 676 grams which is definitely coming under the commercial quantity and the limitation U/S 37 of the N.D.P.S. Act prima facie applies in this case. Further, the petitioner has not been implicated in this case only on the basis of confession of co-accused, rather his implication in this case is also on the basis of other materials. It is also not disputed that earlier the petitioner was granted interim bail by an order passed on 05.07.2022 by this Court in I.A. No. 1079 of 2022 for a period of two months but it is evident from the certified copy of the orders passed on 09.09.2022 and 17.09.2022 by the learned Addl. Sessions Judge, Umakote in T.R. No. 32 of 2020 filed today in this case for the petitioner in support of his surrender after availing interim bail that N.B.W.A. was issued against the petitioner on 09.09.2022 for misusing the liberty granted to him in the form of interim bail, pursuant to which the petitioner surrendered on 17.09.2022. The above facts would not enure to the benefit of the petitioner for grant of bail on the principle of parity.

6. In view of the above facts stated in the preceding paragraph and considering the nature and gravity of offence and taking into consideration the alleged seizure of contraband Ganja to the tune of 105Kg. and 676 grams which is coming under commercial quantity as per the N.D.P.S. Act and further taking into consideration all other allegations on record against the petitioner and keeping in view the limitation provided under Section 37 of the N.D.P.S. Act for release of person accused of offences involving commercial quantity of contraband articles on bail and taking into

consideration the observation of the Apex Court in the ***State of Kerala Vrs. Rajesh; (2020)78 OCR (SC) 65***, this Court is not inclined to grant bail to the petitioner. Accordingly, the prayer for bail of the petitioner stands rejected.

7. Accordingly, the BLAPL stands disposed of.
8. Urgent certified copy of the order be granted on proper application.

Kishore

(G. Satapathy)
Judge

