

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6126 of 2022

Sukadev Das

.... ***Petitioner***
Mr. G. Siddique, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. P.K.Patnaik, AGA

CORAM:
JUSTICE G. SATAPATHY

ORDER
29.11.2022

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 petitioner for grant of bail in connection with Excise P.R. Case No.63 of 2022-23 arising out of Special Case No.143 of 2022 pending in the Court of learned Sessions Judge-Cum-Special Judge, Balasore for commission of offences punishable under Sections 20(b)(ii)(C) of N.D.P.S. Act, on the allegation of consciously possessing 30Kgs. of contraband Ganja.
 3. In the course of hearing of the bail application, Mr. G. Siddique, learned counsel for the petitioner submits that if the materials on record are taken to be true, no offence U/Ss. 20(b)(ii)(C) of N.D.P.S. Act is attracted against the petitioners since two persons were allegedly carrying the contraband Ganja and dividing the quantity of contraband Ganja among them, it would come to 15Kgs.

per person which is an intermediate quantity and, therefore, the bar U/S. 37 of N.D.P.S. Act is not attracted against the petitioner in this case. It is further submitted that the petitioner having been detained in judicial custody since 11.06.2022, may kindly be enlarged on bail.

4. On the contrary, learned counsel for the State, however, strongly opposes the bail application of the petitioner and he inter alia submits that the quantity of contraband Ganja seized in this case is 30Kgs., which is coming under commercial quantity and the mandate of Section 37 of N.D.P.S. Act is required to be satisfied by the petitioner for grant of bail to him and the petitioner having not fulfilled the twin conditions enumerated therein, cannot be released 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 alleged, and circumstance of alleged seizure of 30Kgs. of contraband Ganja which is coming under commercial quantity and the fact that when the learned counsel for the State has opposed the release of the petitioner on bail, it is difficult on the part of the Court to record satisfaction on conspectus of materials on record that there are reasonable grounds for believing that the accused is not guilty of such offence and he is unlikely to commit offence while on bail and taking into consideration the other circumstance in entirety, this Court, therefore, does not consider it proper to grant bail to the petitioner.

6. Hence, the prayer for bail of the petitioner stands rejected.

Trial be expedited as requested by learned counsel for the petitioner.

7. Accordingly, the BLAPL stands disposed of.
8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

kishore

