

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6010 of 2021

Bisu @ Biswanath Haldar

.... ***Petitioner***
M/s. A.K.Jena, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.D.Nayak, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

07.09.2022

Order No.

- 03.
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 Mathili P.S. Case No.120 of 2020 corresponding to T.R. Case No.93 of 2020 pending in the Court of learned Sessions Judge-cum-Special Judge, Malkangiri for commission of offence punishable U/Ss. 20(b)(ii)(C)/27-A of N.D.P.S. Act.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that co-accused persons namely, Suraj Ray and Dhriti Sundar Sardar, who have been apprehended from the spot have already been granted bail by this Court in BLAPL No. 541 of 2022 and BLAPL No. 6802 of 2021 respectively and the present petitioner being implicated in this case solely on the basis of statement of these co-accused persons, may kindly be released on bail since confession of accused before the police is inadmissible and the petitioner having been detained in custody since 3.9.2020 and trial having not yet commenced, the petitioner, therefore, may be released on bail.
 4. On contrary, learned counsel for the State, while opposing the bail application of the petitioner drew the attention of the Court to the provision of Section 37 of the N.D.P.S. Act and submits that the alleged seizure of 153 Kg. 900 gm. contraband Ganja in this case being coming

under commercial quantity would be a bar for release of the petitioner on bail.

5. Considering the rival submissions and taking into consideration release of co-accused persons namely, Suraj Ray and Dhriti Sundar Sardar in BLAPL No. 541 of 2022 and BLAPL No. 6802 of 2021 respectively who have been allegedly apprehended at the spot and the implication of the petitioner being on the basis of statement of co-accused persons and taking into consideration the principle laid down by the Apex Court in the case of *Tofan Singh Vrs. State of Tamil Nadu; (2020) 80 OCR(SC)641* and regard being had to the pre-trial detention of the petitioner since 03.09.2020 and circumstance of the seizure and no material being collected by the investigating agency to indicate about the petitioner absconding or tampering the evidence and further release of another co-accused Bapi @ Chiranjit Biswas in BLAPL No. 6794 of 2021, this Court feels it proper to enlarge the petitioner on bail at least on the principle of parity.

6. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on furnishing bail bonds of Rs.25,000/- with two solvent sureties each for the like amount to the satisfaction of the learned trial Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall not leave the jurisdiction of the learned trial Court without prior permission till conclusion of trial in the case and the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with by the learned trial Court.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge