

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7024 of 2022

Amit Kumar Yadav

....

Petitioner

Mr.Suryakanta Dwibedi, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K.Rout, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

02.08.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as the learned Additional Standing Counsel for the State.
3. This is an application under Section 439 of the Criminal Procedure Code filed by the Petitioner to release him on regular bail in connection with Bisam Katak P.S. Case No.73 of 2021 corresponding to T.R. Case No.62 of 2021 pending in the Court of the learned Additional Sessions Judge-cum-Special Judge, Gunupur for commission of an alleged offence under Sections 20(b)(ii)(C)/27-A/29 of the N.D.P.S.Act..
4. It is submitted by the learned counsel for the Petitioner that Petitioner is in custody since 13.06.2021 for alleged commission of the offences under Sections 20(b)(ii)(C)/27-A/29 of the N.D.P.S.Act . He further submits that four persons were apprehended by the Police from the spot including the Petitioner. Earlier the Petitioner moved this Court by filing BLAPL No.7694 of 2021 and this Court vide order dated

21.02.2022 permitted the Petitioner to withdraw the bail application with liberty to the Petitioner to move afresh if the trial is not concluded within a period of four months. It is also submitted by the learned counsel for the petitioner that despite the direction of this Court, the trial has not yet commenced. Further, it is submitted by the learned counsel for the Petitioner that in the meantime the co-accused namely Piyush Rai @ Ray has been enlarged on bail by this Court in BLAPL No.10368 of 2021 vide order dated 06.07.2022. He further contends that the said Piyush Rai @ Ray stands in similar footing to that of the Petitioner. It is further submitted by the learned counsel for the Petitioner that there are total three bags each containing 26 kg. of contraband article. Therefore, he submits that it can be said that the Petitioner was in possession of little higher than the commercial quantity. It is also submitted by the learned counsel for the Petitioner that the Petitioner does not have any similar nature of criminal antecedents. He further submits that in the event the Petitioner is released on bail he shall abide by the terms and condition and appear before the trial court on each and every date fixed.

5. Learned Additional Standing counsel for the State on the other hand vehemently opposes the release of the Petitioner on bail at this stage. He further submits that the number of cases of illegal transporting of contraband articles are rising in the locality and therefore no leniency should be shown to the Petitioner and other similarly situated persons.

6. Having heard learned counsel for the parties and considering the period of custodial detention of the Petitioner and that when bar under Section 37 of the NDPS Act may not be strictly applicable to this case, it is directed that let the Petitioner be released on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local solvent sureties, each for the like amount to the satisfaction of the learned Court

in seisin over the matter subject to the following conditions that :

- i) The Petitioner shall not be involved in any offence of similar nature;
- ii) he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;
- iii) he shall not make any default in attending the court during trial on each date without fail, and
- iv) he shall appear before the concerned P.S. 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 cancelation 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 petitioner is subject to the condition that learned court below shall verify whether the Petitioner has any criminal antecedents of similar nature. In the event it is found that the Petitioner has any criminal antecedents, this bail order shall automatically stand revoked.

10. The BLAPL is accordingly disposed of.

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

RKS

(**A.K. Mohapatra**)
Judge