

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6239 of 2021

Prasanta Dibaka

....

Petitioner

Mr.Panchanan Panigrahi, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. K.K. Nayak, A.S.C. for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

23.02.2022

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the FIR and other relevant documents on record.
3. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Chandrapur P.S. Case No.44 of 2020, corresponding to T.R. Case No.38 of 2020, pending in the file of learned A.D.J.-cum-Special Judge, Gunupur, for commission of alleged offences under Sections 20(a)(i)/25/27-A of N.D.P.S. Act.
4. Learned counsel for the Petitioner submits the Petitioner does not have any Criminal Antecedents of similar nature and he is in custody since 19.07.2021. It is submitted that after completion of investigation, the police submitted charge-sheet. Further Petitioner denies having any nexus with the illegal cultivation of cannabis plant. He is a labourer working in the said field and has just arrived in the month of October from Hyderabad for the Covid-19 situation.

He further submits that no independent witness has been examined by the prosecution. It is also submitted that the other co-accused persons, namely, (1) Laxman Dibaka, (2) Rabimajhi Dibaka @ Rabi and (3) Mahendra Dibaka @ Masa have already been released on bail by this Court in BLAPL No.7681 of 2021 on 18.11.2021 and other co-accused persons like (5) Tuma Dibaka & Jhuma Dibaka @ Tuna in BLAPL No.10152 of 2021, (6) Malu Dibaka @ Malu Dibaka in ABLAPL No.10108 of 2021, (7) Ramachandra Dibaka @ Rama Dibaka in ABLAPL No.9924 of 2021, (8) Kandula Dibala @ Kamdeb Dibaka in ABLAPL No.1258 of 2021 and (9) Mahana Dibaka @ Maheswar Dibaka in BLAPL No.7999 of 2021 have been granted bail by this Court. Accordingly, he prays that his case may be considered at par with other co-accused persons.

5. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner as the crime involved in the case has a bad effect on the society as a whole. It is further submitted that around 4 to 6 fit height cannabis plant were cultivated, where the accused Petitioner was moving suspiciously and got arrested by the police. However, he submits that if the Petitioner is released on bail, stringent conditions may be imposed on the accused Petitioner.

6. Having heard learned counsel for the parties and considering the period of detention of the Petitioner, it is directed that the Petitioner be released on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one solvent surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to conditions that the Petitioner shall not involve himself in any similar nature of offence particularly involving the offence under the NDPS Act. Petitioner is further directed not to

tamper or influence or threat the prosecution evidence in any manner.

7. Petitioner is also directed to appear before the local police station at an interval of every fifteen days between 11.00 A.M. to 1.00 P.M. on a working day once he comes out of the jail custody. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

8. With the above direction, the BLAPL is accordingly allowed.

9. Issue urgent certified copy on proper application.

(A.K. Mohapatra)
Judge