

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7319 of 2022

Fakir Mohan Jena

.... ***Petitioner***
Mr. U.C. Jena, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. S.K. Nayak, AGA

CORAM:
MR. JUSTICE D.DASH

ORDER
12.09.2022

Order No.

- 02.
1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
 2. This is the successive journey of this petitioner, who is in custody in connection with Bhadrak Rural P.S. Case No.234 of 2021 corresponding to Special N.D.P.S. Case No.69 of 2021 pending in the Court of the learned Sessions Judge-cum-Special Judge, Bhadrak for offence punishable under sections 21(C)/29 of the N.D.P.S. Act read with section 27/28 of the Arms Act in filing this application under section 439, Cr.P.C. for his release on bail.
 3. Learned counsel for the Petitioner submits that the Petitioner being arrested in the case is in custody since 23.05.2021 and in the meantime co-accused, namely, Chintu @ Mahesh Rout similarly situated with the Petitioner has already been released on bail by order passed by this Court in BLAPL No.2666 of 2022. He further submits that although the Petitioner was found to be travelling in the Motor Cycle with other accused persons, the contraband Brown Sugar kept in a packet is said to have been seized from the possession of the accused Sk. Imran @ Eba and for that reason the other co-accused, namely, Chintu has been released on bail. In view of all these above, he urges for reconsideration of the prayer for grant of bail to the Petitioner, as according to him, further detention of the Petitioner in custody would not serve any useful

purpose and insofar as this Petitioner is concerned, the bar contained under section 37 of the NDPS Act at this stage does not stand on the way.

4. Learned counsel for the State does not dispute the position with regard to the factum of grant of bail to the co-accused person Chintu. He, however, placing the earlier order passed by this Court in BLAPL No.250 of 2022 submits that in view of the seizure of 100 numbers of small paper packets from the possession of the Petitioner, this is not the stage to say that the Petitioner had no knowledge about the carriage of the contraband by accused Sk. Imran @ Eba.

5. Considering the submissions as advanced and on going through the averments made in the F.I.R., further keeping in view the surrounding circumstances including the factum of detention of the petitioner in custody since 23.05.2021 and grant of bail to the co-accused persons; while being inclined to reconsider the prayer for grant of bail to this petitioner, it is directed that the petitioner be released on bail in the aforesaid case with such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that:-

- (i) he will appear in person before the court in seisin of the case on each date of posting of the case till conclusion of the trial;
- (ii) will appear before the Inspector-in-Charge of Bhadrak Rural P.S. on every Monday in between 10.00 a.m. to 2.00 p.m. till conclusion of trial;
- (iv) will not indulge himself in commission of similar type of offence; and
- (v) will not leave the jurisdiction of the Court in seisin of the case without prior permission of the court.

Violation of any of the above condition(s) shall entail cancellation of bail.

6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

(D. Dash)
Judge

