

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7580 of 2022

Tanu Swain

.... Petitioner

Mr. B. Pujari, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. S. Jena, ASC

CORAM:

MR. JUSTICE D.DASH

ORDER

13.12.2022

Order No.

01. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
2. This is the second journey of the Petitioner, who is in custody in connection with Kodala P.S. Case No.478 of 2021 corresponding to G.R. Case No.04 of 2022(N) pending on the file of learned Addl. Sessions Judge-Special Judge, Kodala, running for the alleged commission of offence under section- 20(b)(iii)(c)/29 of the NDPS Act, in filing this application under section 439, Cr.P.C., for reconsideration of the prayer for grant of bail to the Petitioner in the above mentioned case.
3. Learned Counsel for the Petitioner submits that this Petitioner being arrested in the case on 16.09.2021 in connection with the case running for possession of 570 kgs 550 grams of ganja from the house belonging to accused Kabiraj Bisoi, she has been in custody since then. He further submits that as per the prosecution case other persons were at that relevant time of search of the house were present and two female accused persons similarly situated with the Petitioner have already been released on bail by order dated 13.05.2022 passed by this Court in BLAPL No.9630 of 2021 whereas it is said that three to four other male persons managed to escape therefrom at the sight of the police. He further submits that this Petitioner having gone to the said house to pay a visit to the head of the family

residing therein, she has been the victim of the circumstance. In view of all these above, he urges for reconsideration of the prayer for grant of bail to the Petitioner as in the meantime investigation of the case is complete and there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence, when her further detention in custody till conclusion of trial would serve no useful purpose. In view of all these, he contends that the bar contained under section-37 of the NDPS Act does not stand on the way of grant of bail to the Petitioner.

4. Learned Counsel for the State opposes the move in view of the quantity of the contraband seized. He, however, does not dispute the position that two other females who are present at the time of search of the house have been released on bail and that as per the prosecution case three to four persons seeing the police had managed to escape.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner as also the surrounding circumstances and the period of detention of the Petitioner in custody; while being inclined to reconsider the prayer for grant bail to the Petitioner in the aforesaid case, it is directed that the Petitioner be released on bail on such terms and conditions as deemed just and proper by the Court in seisin of the case with further conditions that:-

1. Petitioner will appear in person before the Court in seisin of the case on each date of posting the case till conclusion of the trial; and
 2. will not indulge himself in commission of similar type of offences.
6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

(D. Dash)
Judge.