

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7873 of 2022

Sk.Sadir

.... ***Petitioner***
Mr.A.R.Panda, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. P.K.Rout, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

01.11.2022

Order No.

03.

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 Jaleswar P.S.Case No.263 of 2021 corresponding to Special Case No.187 of 2021 pending in the Court of the learned Sessions Judge-cum-Special Judge, Balasore for commission of an alleged offence under Sections 21 (C)/29 of N.D.P.S. Act.
4. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 02.08.2021. In the meantime investigation has been concluded and charge sheet has been filed. It is further submitted by the learned counsel for the Petitioner that the earlier bail application of the Petitioner bearing BLAPL No.8688 of 2021 was disposed of by this Court vide order dated 04.05.2022 directing the trial court to conclude the trial within a period of four months. He further

contends that despite such direction the trial has not commenced as yet. Learned counsel for the Petitioner further contends that the Petitioner does not have similar criminal antecedents. In such view of the matter learned counsel for the Petitioner urges that the Petitioner shall be released on bail subject to any terms and conditions that will be deemed fit and proper by this Court.

5. Learned Additional Government Advocate on the other hand opposes the bail application of the Petitioner on the ground that the allegation against the Petitioner is very serious in nature. Further, he submits that the case of illegal trafficking of brown sugar in Balasore and Jaleswar are rising day by day. Therefore no leniency should be shown to the Petitioner while considering the prayer for bail of the Petitioner. However he submits that in the event of his release, stringent conditions may be imposed on the Petitioner.

6. Learned counsel for the Petitioner on the other hand submits that considering the quantity i.e. 252 grams of brown sugar which was recovered from the possession of the Petitioner is marginally higher than the commercial quantity prescribed under the Notification. Further, it is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since more than one year and that the trial is not likely to be commenced in near future. He further contends that the involvement of the Petitioner in similar nature in future can only be curtailed by imposing stringent condition and failure to comply with such condition direction may be given to cancel the bail and taken back the Petitioner to custody.

7. Having heard learned counsel for the Petitioner and further taking into consideration the facts and circumstances of the present case, quantity of contraband articles involved, period of detention in custody as well as the fact that the Petitioner does not have similar criminal antecedents, this Court is inclined to release the Petitioner on

bail in the aforesaid case 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 terms and conditions

- i) he shall appear before the concerned Police Station once in a week preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.
- ii) shall cooperate with the trial of the case and shall appear in court on each and every date to which the case is posted positively.
- iii) shall not indulge in any offence of similar nature while on bail
- iv) Violation of any of the terms and conditions shall entail cancellation of bail.

7. It is further directed that release of the Petitioner shall also be subject to verification of similar criminal antecedents against the Petitioner. In the event, it is found that the Petitioner is involved in similar nature of criminal offence then this order shall not be given effect to.

8. It is open for the Court in seisin over the matter to fix any other conditions which may be deemed fit and proper in the facts and circumstances of the present case.

9. The Bail Application is accordingly disposed of.

10. Issue urgent certified copy of this order be granted on proper application.