

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6912 of 2021

Pabitra Benia & another

....

Petitioners

Mr.Neelakanta Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.R.Mishra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

22.06.2022

Order No.

04

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners as well as learned Additional Standing Counsel for the State.
3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioners for bail in connection with Malkangiri P.S.CaseNo.274 of 2021 corresponding to Special G.R.cse No.66 of 2021 pending in the Court of the learned Sessions Judge-cum-Special Judge, Malkangiri for alleged commission of offence under Sections 20(b)(ii) (c) & 25 of N.D.P.S.Act.
4. It is submitted by the learned counsel for the Petitioner that the Petitioners are languishing in custody since 22.07.2021 and the investigation of the case has been concluded and charge sheet has been filed. He further submits that the Petitioners are innocent and they are no way connected to the offences in any manner having any criminal antecedents. It is further submitted by the learned counsel for the Petitioner that the mandatory requirement has not been

followed while apprehending the Petitioner. He further submits that the Petitioner was not arrested at the spot. He further submits that the Petitioners do not have any criminal antecedents of similar nature. . It is submitted by the learned counsel for the Petitioners that since the Petitioners are the inhabitants of Malkangiri district, there is no chance of their absconding or fleeing from receiving justice. In the event of their release by this Court, the Petitioners shall appear before the trial court on each date of posting of the case and are ready and willing to abide by the conditions that may be imposed by this Court.

6. Learned Additional Standing Counsel vehemently opposes the prayer for bail of the Petitioners and submits that illegal trafficking of contraband articles is rising day by day and no leniency should be shown to the Petitioners or similarly situated persons.

7. Having heard learned counsel for the parties, considering the surrounding circumstances of the case and the period of custodial detention of the Petitioner, this Court is inclined to grant bail to the Petitioners and it is directed that let the Petitioners be released on bail in the aforesaid case on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) each with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions:

- i) they shall not indulge himself in any similar nature of offence.
- ii) shall appear before the trial court on each and every date fixed by the trial court till conclusion of trial.
- iii) shall not tamper with the prosecution evidence.
- iv) shall not influence or threaten any prosecution witnesses while on bail.
- v) they shall appear before the concerned Police Station once in a fortnight preferably on Sunday in between 10 A.M. to

1 P.M. till conclusion of trial.

vi) Violation of any of the terms and conditions shall entail cancellation of bail.

8. The trial court may impose any other condition(s) as deem fit 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 of similar nature, this bail order shall automatically stand revoked.

10. BLAPL is accordingly disposed of.

11. Issue urgent certified copy as per Rules.

RKS

