

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6952 of 2021

Satyabhama Bai

.... ***Petitioner***
Mr. B.K. Rout, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
25.02.2022

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 F.I.R., case diary and other relevant documents as well as statement of the witnesses.
 3. This is an application under Section 439 of the Criminal Procedure Code.
 4. The Petitioner is an accused in Special2(a) CC No.04 of 2021 arising out of P.R. No.45 of 2021-22 pending in the court of learned Special Judge-cum-S.J., Nayagarh for commission of offence punishable under Sections 20(b)(ii)(C) of the N.D.P.S. Act.
 5. Learned counsel for the Petitioner submits that the Petitioner is a lady aged about 74 years old and she is in custody since 26.07.2021. It is alleged in the F.I.R. that the contraband ganja bag was recovered from her house where she is staying alone. He further submits that the Petitioner had no knowledge that the contraband articles were kept in her residence. Further, learned counsel for the

Petitioner submits that taking advantage of her loneliness and old age, the bag, which was containing contraband articles was kept in her house by some other persons to avoid the seizure by the police. In that view of that matter, the contraband articles were recovered from the conscious and exclusive possession of the Petitioner and that she is an old ailing lady and a permanent residence of the village and also further submits that the Petitioner does not have any criminal antecedents of similar nature. Moreover, it is submitted that there is no scope for absconding or fleeing away from the hands of the justice and Section 37 of the N.D.P.S. Act is not attracted to the facts of the present case.

6. Mr. Mohanty, learned Additional Standing Counsel for the State vehemently opposes the prayer for bail of the Petitioner and submits that illegal trafficking of contraband articles is rising day-by-day and no leniency should be shown to the Petitioner or similarly situated persons.

7. Having heard learned counsel for the parties, considering the period of custodial detention of the Petitioner and she is a 75 years lady and the fact that Section 37 of the N.D.P.S. Act is not attracted, it is directed that let the Petitioner be released on bail on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to conditions that the Petitioner shall not be involved in any offence of similar nature, she shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever and shall not make any default in attending the court during trial on each date without fail. Violation of any of the terms and conditions shall entail cancellation of bail.

9. It is open for the court in seisin over the matter to impose other conditions as may be deemed just and proper.

10. 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, this bail order shall automatically stand revoked.

11. The Bail Application is accordingly disposed of.

12. Urgent certified copy of this order be granted on proper application.

Jagabandhu

