

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7593 of 2021

Prabin Sisha @ Sadab Buri

.... ***Petitioner***
Mr.P.K.Nanda, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

27.04.2022

Order No.

04

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel.
3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with District Mobile Excise Malkangiri P.R.case No.44 of 2017-18 corresponding to T.R.Case No.06 of 2018 pending in the Court of the learned Sessions Judge-cum-Special Judge, Malkangiri for alleged commission of offence under Sections 20(b)(ii)(C)/27-A of N.D.P.S.Act.
4. The prosecution case, as revealed that on 09.01.2018 while the excise officials on patrolling duty they found one pick up vehicle was coming and crossed their vehicle. The driver of the vehicle stopped and tried to escape, but the officials nabbed one person and another person escaped. After enquiry it is found that two jari bags

containing contraband ganja were kept in the vehicle.

5. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in custody since 10.08.2021 and in the meantime investigation has been completed and final charge sheet has been filed. It is further submitted by the learned counsel for the Petitioner that the Petitioner was apprehended after three years of occurrence. It is also submitted that nothing was seized from the possession of the Petitioner. It is further submitted that since the Petitioner is permanent inhabitant of Datunguda under Malkangiri district, there is no chance of absconding or fleeing from the hands of justice. He also undertakes to appear before the trial court on each and every date of posting of the case.

6. Learned Additional Standing Counsel 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 fact and circumstances of the case and the fact that nothing has been seized from the possession of the Petitioner and co-accused has been released on bail and the period of custodial detention of the Petitioner, I am inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released 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 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) he 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

(*A.K. Mohapatra*)
Judge