

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8927 of 2021

Dullava Samaratha

....

Petitioner

Mr. Tukuna Kumar Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K. Mohanty, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

06.04.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Kosagumuda P.S. Case No.40 of 2021, corresponding to T.R. No.19 of 2021, pending in the file of learned Sessions Judge-cum-Special Judge, Nabarangpur, for commission of alleged offences under Sections 20(b)(ii)(c)/29 of N.D.P.S. Act.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.
4. Learned counsel for the Petitioner submits Petitioner is languishing in jail custody since the date of his arrest, i.e. 12.03.2021. The contraband articles were not seized from the conscious possession of the Petitioner, therefore bar of Section 37 of the NDPS Act does not attract to the case of the

Petitioner. Petitioner is working as a labourer and with good faith transporting the same, therefore, there is absolutely no material against the Petitioner to implicate him in the instant case. Further Petitioner is ready and willing to abide by any terms and conditions as fixed by this Hon'ble Court in the event of release on bail. The further submission is that he is a permanent resident of the district, hence there is no chance of absconding or avoiding the trial.

5. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner. It is submitted that now-a-days case of illegal trafficking of contraband articles are increasing day by day, therefore, no leniency should be shown to the present Petitioner, who involved in such crime. Accordingly, he prays for rejection of his bail application.

6. Having regard to the facts and circumstances of the case, considering the nature and gravity of offences alleged and the period of detention of the Petitioner, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

- i) He shall not involve himself in any similar nature of offence particularly involving the offence under the NDPS Act;
- (ii) He shall appear before the trial court on each and every date as fixed by the court;

(iii) He shall appear before the I.O. on every Sunday at 10 A.M. to 1.00 P.M. and report to the police;

(iv) He shall not tamper with the prosecution evidence;

(v) He shall not influence or threaten any prosecution witness and cooperate in the investigation;

(vi) He shall provide his present address and mobile number to the I.O. and if any changes therein shall also be intimated to the I.O.;

(vii) He shall not leave the jurisdiction of the court without special permission from the court; and

(viii) Violation of any of the above conditions shall entail cancellation of the bail.

7. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

8. With the above direction, the BLAPL is accordingly allowed.

9. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge