

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8951 of 2021

Chitrasen Nag

.... Petitioner

Mr. S.K. Baral, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. K. Das, A.S.C.

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

25.07.2022

Order No.

06.

1. This is an application under Sec.439 Cr.P.C. for bail and the offences alleged are under Secs.20(b)(ii)(C)/25/29 of the NDPS Act for alleged possession of contraband ganja weighing 24 kg. 200 grams.

2. Heard Mr. S.K. Baral, learned counsel for the Petitioner and Mr. K. Das, learned A.S.C. for the State-Opposite Party.

3. It is submitted that the Petitioner is inside custody since 16.1.2020 and in the meantime one of the co-accused, namely, Bhaskar Kanhar has been released on bail by another coordinate Bench of this Court in BLAPL No.3757 of 2021 and this Petitioner is standing on the same footing with the said Bhaskar Kanhar. So it is prayed to release him on bail considering the grounds of parity and keeping in view his period of detention.

4. Upon hearing both parties and considering the embargo contained in Section 37(1)(b) of the NDPS Act, I am not inclined to release the Petitioner on bail. The prayer for bail is rejected.

5. It needs to mention here that, it is well settled that the ground of parity in bail application cannot be the sole consideration, particularly where the statutory provision under Section 37(1)(b) of the NDPS Act stands as the Bar. Thus the decision relied on by the counsel for the Petitioner in the case of *Bikash Duria vs. State of Odisha*, reported in 2020 (III) ILR-CUT-165 is distinguishable. Again the case of *Kishore Bira vs. State of Odisha* (disposed of on 11.07.2022 in BLAPL No.9629 of 2021) as relied on by the counsel for the Petitioner cannot help him since the Petitioner has not completed the substantial period in custody vis-à-vis the minimum punishment prescribed under Section 20(b)(ii)(C) of the NDPS Act and the fact that earlier he was released on interim bail once.

6. The BLAPL is dismissed.

7. However, as prayed on behalf of the Petitioner, learned trial court is directed to take expeditious steps for early completion of the trial.

(*B.P. Routray*)
Judge