

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10182 of 2022

Santosh Kumar

....

Petitioner

Mr. A Das, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. P.K. Rout, AGA

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

17.11.2022

Order No.

01.

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.
3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with R. Udayagiri P.S. No.29 of 2021, corresponding to G.R. Case No.41 of 2021, pending in the Court of Special Judge-cum-Sessions Judge, Gajapati at Paralakhemundi for commission of offences punishable under Sections 20(b)(ii)(C), 25 and 29 of the N.D.P.S. Act, 1985.
4. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 20.02.2021. It is further submitted that although the charge sheet has been filed in the meantime, the trial has not yet been commenced and it is unlikely that the same would be concluded in the near future. It is further submitted that 92 Kg. 950 grams of Ganja was seized from the four accused persons. Therefore, it is submitted that the share of each comes around 20 Kilo Grams. It is further submitted that the Petitioner does not have

similar criminal antecedent and the earlier bail application of the Petitioner i.e. ABLAPL No.6581 of 2021 was disposed of as not pressed by this Bench vide order dated 04.03.2022 with a direction to the trial court to expedite the trial and conclude the same within a period of six months. It is further submitted that despite the direction of this Court, the trial has not yet commenced although charge has been framed and there is least chance of completion of trial in near future. On such ground, learned counsel for the Petitioner submits that the Petitioner may be released on bail.

5. Learned Additional Government Advocate appearing for the State-Opposite Parties submits that the Petitioner was arrested from the spot along with other accused persons and total contraband of Ganja was recovered from the possession of the Petitioner and others. Therefore, the Petitioner should not be released on bail, as illegal trafficking of Ganja in the State of Odisha is rise now-a-days. In such view of the matter, he urges that the bail application of the Petitioner may be rejected at this juncture.

6. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the present case and also taking into consideration the period of custodial detention of the Petitioner, this Court is inclined to release the Petitioner on bail.

7. Hence, it is directed that the Petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000/-(Rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter subject to conditions that :-

- (i). The Petitioner shall not be involved in any offence of similar nature;

- (ii) he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;
- (iii) he shall not make any default in attending the court during trial;
- (iv) he shall appear before the concerned Police Station once in a month preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of trial; and
- (v) he shall not leave the jurisdiction of the Court in seisin over the matter and shall furnish his address and mobile number to the police from time to time.

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

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

9. It is further directed that the bail granted to the Petitioner is subject to the condition that the court below shall verify whether the Petitioner has any criminal antecedent of similar nature. In the event it is found that the Petitioner has any criminal antecedent, this bail order shall automatically stand revoked.

10. It is made clear that if the Petitioner fails to attend the court on the date fixed on a single occasion, this order shall stand automatically revoked and the court below is at liberty to issue N.B.W. against the Petitioner forthwith.

11. The BLAPL is, accordingly, disposed of.

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

(A.K. Mohapatra)
Judge

Debasis

