

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9247 of 2021

Nilanchal Sunamudi

.... ***Petitioner***
Mr.D.R.Bhokta, Advocate

-versus-

State of Odisha

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

13.04.2022

Order No.

02

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 P.R.No.131/21-22 of Rayagada Excise Station corresponding to T.R.Case No.15 of 2021, pending in the Court of the learned District & Sessions Judge-cum-Special Judge, Rayagada for alleged commission of offence under Sections 20(b)(ii)(C) of the N.D.P.S.Act.
5. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in jail custody since 11.08.2021 and after completion of investigation by the Police, charge sheet has been filed. It is further submitted by the learned counsel for the Petitioner that the Petitioner was not present in the house when the recovery of contraband ganja was made. It is also submitted by the learned counsel for the Petitioner that the mandatory provisions of the

N.D.P.S. Act has not been followed by the Investigating Agency. It is also submitted by the learned counsel for the Petitioner that since the Petitioner is staying permanently under Rayagada Police Station, there is no chance of his absconding or fleeing away from the hands of justice and in the event of his release on bail, he will appear before the trial court on each and every date of posting.

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 that the petitioner was absent in the house when the recovery was made in the house, the period of custodial detention of the Petitioner and the mandatory provisions of the NDPS Act has not been followed in this case, 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 herself 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) 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

