

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9585 of 2021

Makbul Khan

....

Petitioner

Mr. S.K. Das, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.N. Das, Additional Standing Counsel

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

10.01.2022

Order
No.

- 01.
1. This matter is taken up through video conferencing mode.
 2. Heard learned counsel for the petitioner and learned counsel for the State.
 3. This is an application under Section 439 of Cr.P.C for grant of bail to the petitioner in connection with P.R. No.117/2021-22 of EI & EB Unit-II, Cuttack registered under Section 21(b) of NDPS Act corresponding to 2(a) CC No.46 of 2021 pending in the file of learned Sessions Judge-cum-Special Judge, Cuttack.
 4. Perused the PR as at Annexure-1 and impugned order dated 25.10.2021 as at Annexure-2.
 5. Gone through the contents of the PR.
 6. Learned counsel for the petitioner submits that the accused is a first time offender and in so far as the contraband brown sugar allegedly recovered is concerned, it is less than commercial quantity and considering the period of detention which is more than three

months by now, the accused should be enlarged on bail with any conditions.

7. Learned counsel for the State submits that the case diary is not available and hence, no instruction on the criminal antecedent vis-à-vis the petitioner.

8. On perusal of the PR, it is made to reveal that on the date of occurrence, the excise police intercepted the petitioner out of suspension and searched him during and in course of which 110 grams of brown sugar was recovered and seized. It has been seized from the exclusive possession of the petitioner as is made to appear from Annexure-1. The learned court below rejected the bail on the ground that the contraband brown sugar said to have been seized from conscious possession of the petitioner. The petitioner claims to have no criminal antecedent. The investigation seems to be still in progress.

9. Having regard to the above facts and submissions made and also period of detention of the petitioner besides recording the submission of learned counsel for the petitioner to the effect that the accused is having no criminal antecedent, the Court is inclined to release the petitioner on bail with following conditions, more fully when less than commercial quantity is shown to have been seized in the case.

10. In the result, the petitioner is allowed to go on bail on furnishing a bail bond of Rs.50,000/-(rupees fifty thousand) with one solvent surety for the like amount to the satisfaction of the learned court below in seisin over the matter, who shall impose such other conditions, as deemed just and proper, in the facts and circumstances.

11. The BLAPL is disposed of.

12. The above order of bail shall not be given effect to, in the event, the learned court below on verification find presence of criminal antecedent of similar nature vis-à-vis the petitioner

13. As the restrictions due to the COVID-19 situation are continuing, learned counsel for the parties may utilize a soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed, vide Court's Notice No.4587, dated 25 March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

TUDU

