

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9603 of 2021

Rakesh Kumar Behera

....

Petitioner

Mr. M.R. Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

18.05.2022

Order No.

- 04.
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. Perused the F.I.R., case diary and other relevant documents as well as statement of the witnesses.
 3. This is an application under Section 439 of the Criminal Procedure Code.
 4. The petitioner is an accused in 2(a)CC Case No.33 of 2021 arising out of EI & EB Unit-I Cuttack P.R. No.55 of 2021 pending in the court of learned Sessions Judge-cum-Special Judge, Cuttack for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act.
 5. It is alleged that 63 Kgs. of contraband ganja was recovered and seized from the conscious possession of the petitioner.
 6. It is submitted by learned counsel for the Petitioner that the

petitioner has been falsely implicated in the present case and that the petitioner is in custody since 21.06.2021 and investigation of the case has been completed and charge-sheet in the case has been submitted. He also submits that the petitioner does not have any criminal antecedents and there is no scope for absconding or fleeing from the hands of the justice and that the bail application of the petitioner may be considered. It is also submits that another co-accused person has already been released on bail by this Court by order dated 11.05.2022 in BLAPL No.10476 of 2021.

7. Mr. Nayak, learned Additional Standing Counsel for the State vehemently opposes the prayer for bail of the Petitioner and submits that number of such cases are increasing day-by-day and no leniency should be shown to the Petitioner or similarly situated persons.

8. Having heard learned counsel for the parties and considering the period of custodial detention of the Petitioner, it is directed that let the Petitioner be released on bail on furnishing a bail bond of Rs.30,000/- (rupees thirty thousand) with one local solvent surety for the like amount to the satisfaction of the learned 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 on each date without fail; and

IV. he shall appear before the concerned Police Station once in a week preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of trial;

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

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

10. 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, this bail order shall automatically stand revoked.

11. The Bail Application is accordingly disposed of.

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

(A.K. Mohapatra)
Judge