

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9605 of 2021

Amaresh Behera @ Papu

....

Petitioner

Mr.Pravash Ch.Jena, Advocate

-Versus-

State of Odisha

Opposite Party

Mr.S.S.Mohapatra , ASC

CORAM:
JUSTICE R.K.PATTANAIK

Order No.

ORDER
11.01.2022

1. This matter is taken up through video conferencing mode.
2. Heard learned counsel for the petitioner and learned Addl. Standing Counsel for the State.
3. ★ This is an application under Section 439 Cr.P.C. for grant of bail to the petitioner in connection with T.R. No. 146 of 2021 arising out of Excise Khurda P.R. No. 37/21/22 pending in the court of learned 1st Addl.Sessions Judge-cum-Special Judge under NDPS Act, Khurda.
4. Perused the P.R. at Annexure-1 and the impugned order 25.10.2021 at Anneuxre-2.
5. Gone through the contents of the P.R. at Annexure-1.
6. Learned counsel for the petitioner submits that recovery and seizure is shown against the accused as to brown sugar of 30 grams besides the other contraband substances and in the meantime, final P.R. is submitted and accused is in

custody since the month of October, 2021 and he does not have any criminal antecedent, considering which he should be enlarged on bail with any conditions.

7. Learned counsel for the State submits that the case diary is not available and there is no instruction about the criminal antecedent vis-à-vis the petitioner. It is also submitted that 30 grams of brown sugar and good quantity of Eskuf cough syrup shown to have been seized from the possession of the petitioner and similarly no instruction is available regarding closure of investigation by the Excise Police.

8. On perusal of P.R. it is made to suggest that apart from the 30 grams of brown sugar, much quantity of Eskuf cough syrup bottles besides cash of Rs. 49,570/- was recovered and seized by the Excise Police from the possession of the petitioner. The materials prima facie establish such recovery made from the exclusive possession of the petitioner. However, it is submitted to the Court by the learned counsel for the petitioner that the accused is having no criminal antecedent and the first time offender and that apart, the final P.R. is filed in the court concerned and the contraband substance of brown sugar has been seized from the accused is not a commercial quantity. Of course, large number of Eskuf cough syrup bottles have been seized along with cash of Rs. 50,000/- approximately.

9. Having regard to the above facts, submission made by the respective counsels and the fact that the final P.R. is submitted and the accused is having no criminal track report and considering the fact that the petitioner is in judicial custody nearly three months by now, the Court is of the

considered view that he should be released on bail with any stringent conditions.

10. In the result, it is directed that the petitioner be released on bail on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) with two solvent sureties for the like amount to the satisfaction of the learned court below in seisin over the matter with conditions that he shall not commit similar offence or involvement himself any such criminal activities, while on bail; and shall cooperate the I.O. for the purpose of investigation; and in the meantime, shall maintain proper behavior and conduct.

11. It is made clear that the above order of the bail vis-a-vis the petitioner shall not be given effective to by the learned court below if on verification, finds the final P.R. is not being submitted and the petitioner having criminal antecedents of similar nature.

12. The BLAPL is accordingly disposed of.

13. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No. 4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos. 5143 and 515 dated 7th January, 2022.

(R.K.Pattanaik)
Judge

