

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9649 of 2021

Manoj Kumar Nayak

....

Petitioner

Mr. S.K. Nayak, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.N. Das, Additional Standing Counsel

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

11.01.2022

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.35 of 2021-22 of Konark Excise Station, Puri corresponding to Spl. G.R. Case No.52 of 2021 pending in the file of learned Additional Sessions Judge-cum-Special Judge, Nimapara.
 4. Perused the PR i.e. Annexure-1 and impugned order dated 11.10.2021 as at Annexure-2.
 5. Gone through the contents of the Annexure-1.
 6. Learned counsel for the petitioner submits that case has been planted against the accused by the Excise police with the allegation that 163 grams of Brown sugar was recovered from him. It is further submitted that the petitioner does not have any criminal

antecedent of similar nature and therefore, he should be released on bail with any conditions.

7. Learned counsel for the State submits that the case diary is not available but then PR shows that the alleged recovery was made from the petitioner.

8. Admittedly, Annexure-1 indicates recovery and seizure of 163 grams of brown sugar from the conscious possession of the accused which is of course not a commercial quantity. Except the contraband substance, no other seizure is shown to have been made from the accused. It is claimed that the petitioner is having no criminal track record and a first time offender. It is also claimed that the final PR has in the meantime been submitted by the Excise police.

9. Considering the above facts, submissions made and recording submission of the learned counsel for the petitioner that accused does not have any criminal antecedent of similar nature and taking into account his period of detention which is more than two months by now, the Court is of the considered view that he should be released on bail with conditions and accordingly, it is ordered.

10. In the result, the petitioner is allowed to go on bail on furnishing a bail bond of Rs.40,000/-(rupees forty 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 above order of bail shall not be given effect to by the learned court below, if on verification, it finds presence of criminal antecedent of similar nature vis-à-vis the petitioner.

12. The BLAPL is disposed of.

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.

(R.K. Pattanaik)
Judge

TUDU

