

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10356 of 2021

Chandrasekhar Choudhury

....

Petitioner

Mr. Debasis Sarangi
Advocate

-versus-

State of Odisha

....

Opposite Party

Mr.A.Pradhan,
Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

20.01.2022.

Order No.

01.

1. This matter is taken up through virtual mode.

2. Heard Mr. Debasis Sarangi, learned counsel for the Petitioner, and Mr. A. Pradhan, learned Addl. Standing Counsel for the State.

3. The Petitioner is in custody since 16th September, 2021 in connection with Adava P.S. Case No.36/2013 corresponding to G.R. Case No.28/2013(B) pending in the court of learned Special Judge, Gajapati, Parlakhemundi for the alleged commission of the offence under Sections 20(b)(ii)(C)/25/29 of the N.D.P.S. Act.

4. As it appears, ten persons were implicated in the case on the basis of the report submitted by the S.I. of Police, Adava P.S., on 3rd October, 2013 alleging transportation of 1478.865 kgs of ganja by the accused persons. It is submitted that the accused persons who were apprehended at the spot have been acquitted in the trial while other co-accused persons namely, Nilu Nayak, Bighnaraj Bisoyi and Ashesh Swalsingh have been granted anticipatory bail and another co-accused namely, Jaukin Bira was granted regular bail. In so far as the present Petitioner is concerned, he voluntarily surrendered before the Court below on 16th September, 2021.

5. Learned Addl. Standing Counsel for the State, on the other hand, has opposed the prayer for bail by submitting that the bar under Section 37 of the NDPS Act applies in full force in the present case in view of the huge quantity of ganja recovered from the possession of the Petitioner.

6. It is true that Section 37 of the NDPS Act places an embargo on the Court to release the accused persons on bail in case of the contraband being more than commercial quantity, yet taking into consideration the peculiar facts of the case to the effect that all other accused persons have either been acquitted or granted protection/regular bail and there is nothing on record to show that the present Petitioner can be treated differently than them, I am inclined to allow the prayer for bail.

7. Let the Petitioner be released on bail on such terms and conditions as may be imposed by the court in seisin over the matter in the aforesaid case including the condition that he shall appear before the trial court on each date of posting of the case, failing which it shall be open to the trial court to pass appropriate adverse order as it may deem fit and proper.

8. The BLAPL is disposed of.

9. 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, modified by Notice No.4798, dated 15th April, 2021 and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

AKB

(Sashikanta Mishra)
Judge