

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10639 of 2021

Binesh Digal and another

.... ***Petitioners***
Mr. S. Dwibedi, *Advocate*

-versus-

State of Odisha

.... ***Opp. Party***
Mr. K.K. Nayak, *A.S.C.*

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

21.01.2022

Order No.

- 01.
1. This matter is taken up through Video Conferencing Mode.
 2. Heard Mr. S. Dwibedi, learned counsel for the Petitioners and Mr. K.K. Nayak, learned counsel for the State. Perused the F.I.R., case diary and other relevant documents on record.
 3. This is an application under Section 439 of the Criminal Procedure Code.
 4. The Petitioners are accused in 2(a) CC Case No.15 of 2021 corresponding to P.R. Case No.24 of 2021-22 pending in the court of learned Special Judge-cum-Additional Sessions Judge, Balliguda for commission of offence punishable under Section 20(b)(ii)(B) of the N.D.P.S. Act.
 5. It is alleged that 8 Kgs. of contraband ganja was seized from the conscious possession of the Petitioners.
 6. Learned counsel for the Petitioner submits that the Petitioners do not have any criminal antecedents of similar nature of offences and they are in custody since 03.11.2021. Considering the quantity involved Section 37 of the N.D.P.S. is not attracted.
 7. Learned counsel for the State vehemently opposes the prayer for

bail of the Petitioners.

8. Having heard learned counsel for the parties and considering the period of detention of the Petitioners and that Section 37 of the N.D.P.S. Act is not attracted, it is directed that let the Petitioners be released on bail on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) each with two solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to conditions that the Petitioners shall not be involved in any offence of similar natures, they shall not tamper with the prosecution evidence or try to threaten or gain over witnesses in any manner whatsoever and shall not make any default in attending the court during trial on each date.

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

10. It is further directed that the bail granted to the Petitioners is subject to the condition that learned court below shall verify whether the Petitioners have any criminal antecedents of similar nature. In the event it is found that the Petitioners have any such criminal antecedents, this bail order shall automatically stands revoked.

11. The Bail Application is accordingly disposed of.

12. As the restrictions due to resurgence of COVID -19 situation are continuing, learned counsel for the parties may utilize a print out 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 Office Order dated 7th January, 2022.

