

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10731 of 2021

Bhisma Khara

....

Petitioner

Mr. Asit Kumar Jena, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K. Mohanty, ASC

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

06.07.2022

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Orkel P.S. Case No.207 of 2021, corresponding to Spl. G.R. Case No.110 of 2021, pending in the court of Sessions Judge-cum-Special Judge, Malkanagiri, for commission of alleged offences under Sections 20(b)(ii)(C)/27 of N.D.P.S. Act, 1985.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.
4. Learned counsel for the Petitioner submits that the Petitioner is in custody since 14.11.2021. It is further submitted that police after completion of investigation has filed charge-sheet against the Petitioner. It is submitted that Petitioner is an innocent person and he has been falsely implicated in the present case. It is further submitted

that Petitioner has no nexus with the crime and therefore it cannot be said that the contraband articles were seized exclusively from the Petitioner as Section 37 of the NDPS Act is not attracted to the case of the Petitioner. It is further submitted that he is a local person, therefore, there is no chance of absconding the trial of the case.

5. Learned counsel for the State vehemently opposes the bail application of the Petitioner on the ground that the case of illegal trafficking of contraband ganja is increasing rapidly in the State of Odisha, therefore, no leniency should be shown to the accused person involving in such matters. However, he submits that a quantity of 116 kgs. of contraband ganja has been recovered from the Petitioner and others. Accordingly, he prays for rejection of the bail application of the Petitioner.

6. Having heard learned counsel for the parties and considering the custodial detention of the Petitioner and the peculiar facts and circumstances of the case, this Court is inclined to release the Petitioner on bail subject to stringent conditions. Let the Petitioner be released on bail subject to furnishing bail bond of Rs.50,000/- (Rupees Fifty thousand) each with two local sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions :

- i) He shall not indulge in similar nature of offence;
- ii) He shall appear before the trial court on each and every date and shall cooperate for early conclusion of trial;
- iii) He shall not tamper with the prosecution evidence and shall not make any attempt to influence or threaten the witnesses;

iv) He shall provide his address as well as his phone number to the concerned Police Station and keep the same updated in the event the same is changed in future;

v) He shall appear before the concerned Police Station once in a fortnight preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.

vi) He shall not leave the jurisdiction of the court without prior permission of the trial court;

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

8. 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 of similar nature, this order shall automatically stand revoked.

9. With the aforesaid observation the BLAPL stands disposed of.

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

(A.K. Mohapatra)
Judge