

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11989 of 2022

Murshid Khan @ Mursid Khan @ Juma ***Petitioner***

Mr. G.R. Dhal, Advocate

-versus-

State of Orissa ***Opp. Party***
Mr. S.R. Roul, A.S.C.

CORAM:
JUSTICE G. SATAPATHY

ORDER
20.12.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Pipili P.S. Case No.285 of 2022 corresponding to Spl. G.R. No. 84 of 2022 which is now transferred for trial as T.R. Case No. 121 of 2022 pending in the file of learned Additional District and Sessions Judge, Puri for commission of offences punishable U/Ss. 21(c) and 29 of the N.D.P.S. Act, on the allegation of possessing 550 Grams of brown sugar.
3. In the course of hearing of the bail application, learned counsel for the Petitioner submits that although the Petitioner has been shown to have found in possession of commercial quantity of brown sugar, but during the course of investigation, the police has shown different quantity of brown sugar found from the possession of the Petitioner, such as in the FIR, it has been stated that 540 Grams of brown sugar has been seized, but in the charge-sheet it has been mentioned that 550 Grams of brown sugar was found in possession of the Petitioner

and therefore, it is clear that the Petitioner has been falsely implicated in this case and the Petitioner having detained in custody since 18.06.2022 on false accusations may kindly be released on bail.

4. On the other hand, Mr. S.R. Roul, learned A.S.C., submits that either 550 or 540 as the quantity of brown sugar shown to have seized in this case but it is definitely coming under commercial quantity and thereby, section 37 of NDPS Act would operate as a Bar for release of the Petitioner on bail. It is accordingly, prayed by him to reject the bail application of the Petitioner.

5. Considering the rival submissions made, the nature and gravity of accusations raised against the Petitioner as also the gravity of offence and keeping in view the mandate of Section 37 of NDPS Act and the specific allegation against the Petitioner for recovery of commercial quantity of brown sugar from him and the Petitioner having not satisfied the Court about existence of the twin conditions as mandated U/S. 37 of NDPS Act in favour of him, this Court does not find any reason to grant bail to the Petitioner.

6. Hence, the bail application of the Petitioner stands rejected.

7. Accordingly, the BLAPL stands disposed of.

8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge