

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11027 of 2021

Nimain @ Nimain Charan Behera *Petitioner*
Mr. J.K. Majhi, Advocate
-versus-
State of Odisha *Opposite Party*
Mr. R.N. Mishra, A.S.C. for State

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
24.01.2022

Order No.

01. 1. This matter is taken up through Video Conferencing mode.
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Basta P.S. Case No.290 of 2021, corresponding to Spl. Case No.270 of 2021 in the file of learned Sessions-cum-Special Judge, Balasore, for commissions of alleged offences under Section 21(c)/29 of N.D.P.S. Act.
3. Heard learned counsel for both the parties. Perused the records.
4. It is submitted that the seizure of contraband Brown Sugar has been recovered from one Harisankar Das. It is only some cash, which has been recovered from the possession of the present Petitioner. Since it was not recovered from the conscious possession of the Petitioner, Section 37 of the NDPS Act is not a bar for the Petitioner. Learned counsel for the Petitioner submits that the Petitioner has no criminal antecedents.

5. Learned counsel for the State vehemently opposes the prayer for bail of the Petitioner. However, he submits that one Harishankar Das in his statement has admitted that he is the owner of the contraband articles (Brown Sugar) and the same has been seized from his conscious possession.

6. Having heard learned counsel for the parties and considering the fact that the contraband articles was not seized from the conscious possession of the present Petitioner, Section 37 of the NDPS Act is not attracted. In such view of the matter, this Court directs release of the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one solvent surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to conditions that the Petitioner shall not involve himself in any similar nature of offences particularly involving the offence under the NDPS Act.

7. Petitioner is also directed to appear before the local police station at an interval of every fifteen days between 11.00 A.M. to 1.00 P.M. on a working day once he comes out of the jail custody. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

8. With the above direction, the BLAPL is accordingly allowed.

9. 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.

(A.K. Mohapatra)
Judge

U.K.Sahoo

