

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.12415 of 2022

Jadabalal Das

.... ***Petitioner***
M/s. S.K.Joshi, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.S.R.Roul, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

21.12.2022

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 P.R. No. 359/2021-2022 of Rayagada Excise Station corresponding to T.R. Case No.05 of 2022 pending in the Court of learned Additional District & Sessions Judge-cum-Special Judge, Rayagada for commission of offence punishable U/Ss. 20(b)(ii)(B) of the NDPS Act on the allegation of possessing 2.5 Kgs. of contraband Ganja.
3. In the course of hearing of the bail application, Mr.S.K.Joshi, learned counsel for the petitioner very fairly submits that although in one case the petitioner has been convicted for similar offence but there is merit in the appeal against such conviction and there is every possibility that the petitioner would come out successfully in the appeal and in the present case, the petitioner has been falsely implicated for possessing 2.5 Kgs. of contraband Ganja but the same having not done with fair investigation coupled with non-compliance

of mandatory provisions of NDPS Act, the petitioner may kindly be granted bail.

4. On the contrary, Mr.S.R.Roul, learned counsel for the State however, strongly opposes the bail application of the petitioner.

5. Considering the rival submissions made, taking into consideration the nature and gravity of accusations raised against the petitioner and keeping in view the other surrounding circumstances including the pre-trial detention of the petitioner since 28.02.2022 and taking into further the fact that the trial has already commenced and the factum of permanent residence of the petitioner within the jurisdiction of Rayagada district having not disputed and taking into account the principle that bail is the rule but jail is the exception together with the punishment prescribed which may extend to ten years, for the offence alleged, this Court admits the petitioner to bail.

6. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on furnishing bail bonds of Rs.50,000/- with two solvent sureties each for the like amount to the satisfaction of the learned trial Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall not leave the jurisdiction of the learned trial Court without prior permission till conclusion of the trial and that the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with and that the petitioner shall report attendance before the jurisdictional Excise Station once in a fortnight preferably on second Saturday of every month in between 10 A.M. to 12 Noon for six months from the actual date of release from the custody. The in charge of the jurisdictional Excise Station shall not detain the petitioner unnecessarily after recording his attendance beyond the time as stipulated.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the petitioner without further reference to this Court, if any of the above conditions are violated or a case for cancellation of bail is otherwise made out.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge

Kishore

