

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.12811 of 2022

Harasingh Mundry

...

Petitioner

Mr. C. Rout, Advocate

-versus-

State of Odisha

...

Opposite Party

Mr. S.R. Roul, ASC

**CORAM:
JUSTICE G. SATAPATHY**

**ORDER
23.12.2022**

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 C.T. (Spl) NDPS Case No.2 of 2021 arising out of Pallahara P.S. Case No.55 of 2021 pending in the file of learned Addl. District & Sessions Judge, Talcher, for commission of offences punishable under Section 18(b) of N.D.P.S. Act, on the allegation of cultivating opium poppy plants in the jungle.
3. In the course of hearing of the bail application, Mr. C. Rout, learned counsel for the petitioner submits that the FIR has been lodged against unknown person, but the petitioner was subsequently arrested, although he has no role in the cultivation of opium poppy plants and when no incriminating material has been seized from the possession of the petitioner and the land in which

opium poppy plants were found grown in a jungle land, therefore, the mandatory conditions as enumerated in Section 37 of NDPS Act are not required to be fulfilled by the petitioner for his release on bail. It is further submitted by him that co-accused standing on similar footing has already been granted bail by this Court in BLAPL No.10664 of 2022 and the petitioner being inside custody since 22.11.2021 may kindly be granted with bail.

4. On the contrary, Mr. S.R. Roul, learned ASC strongly opposes the bail application of the petitioner and he *inter alia* submits that the motor cycle of the petitioner was found near by the field, where opium poppy plants were grown and, therefore, the petitioner having role in cultivating opium poppy plants, may not be granted bail.

5. Considering the rival submissions made and taking into consideration the nature and gravity of accusations raised against the petitioner and regard being had to the fact that FIR has been lodged against unknown person and keeping in view the fact that the petitioner was not apprehended from the land, where opium poppy plants were grown and the fact that the petitioner is inside jail custody since 22.11.2021 and in the meanwhile, investigation has already been completed and further taking into account release of co-accused on bail and the basis of implication of the petitioner in this case, this Court admits the petitioner to bail.

6. Hence, the prayer for the bail of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bond of Rs.1,00,000/- (Rupees One Lakh) with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit

and proper with further conditions that the petitioner shall not commit any offence while on bail and that the petitioner shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with and that he shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case and that the petitioner shall report attendance before the Jurisdictional Police Station once in a week preferably on Monday in between 12 Noon to 1 PM. for six(6) months. The I.I.C. of Jurisdictional Police 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. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subhasmita