IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4260 of 2024

Sahurn Khan .... ***Petitioner***

Mr. R. C. Maharana, Advocate

-versus-

State of Odisha .... ***Opposite Party***

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
04.10.2024

Order No.

03. 1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in connection with 2(a)CC No.54 of 2023 pending on the file of learned 2nd Addl. Sessions Judge, Cuttack arising out of Cuttack P.R. No.539 of 2022-23 for commission of offence alleged under Section 20(b)(ii)(C) of the N.D.P.S Act.

3. Learned counsel, on instruction, submits that except the present BLAPL, no other bail application of the Petitioner relating to the aforementioned P.S. case is pending in any other Court.

4. Being aggrieved by the rejection of his application for bail U/s.439 of Cr.P.C. by the learned

2nd Addl. Sessions Judge, Cuttack by order dated 09.04.2024 in the aforementioned case, the present BLAPL has been filed.

5. It is submitted by the learned counsel that the Petitioner is in custody since 15.03.2023 on the allegation that he along co-accused are involved in transportation of the contraband (ganja) to the tune of 125 Kg. The Petitioner seeks release primarily on the ground of procrastination of trial.

6. Learned counsel for the State opposes the prayer for bail in view of the judgment of the Apex Court in the case of **State by the Inspector of Police vs. B. Ramu** in SLP(Crl.) No(s).8137 of 2022 dated 12.02.2024. He further submits that the Petitioner is a flight risk.

7. To test the veracity of the submission that there is no progress in trial, a report was called for from the learned Court in seisin. The report reads thus:

> "The case record is received from the Court of the Sessions Judge- cum-Special Judge, Cuttack on 30.11.2023. Charge was framed on 04.01.2024. There are total 3 (three) numbers of PR witnesses. Summons have already issued against PR witness Nos.- 2 & 3 through Process Establishment, Excise Station, concerned PS and registered post, fixing 05.10.2024 for evidence."

8. Taking into account that the case has not moved beyond the stage of framing of charge and the Petitioner is in custody for more than a year and placing reliance on the affidavit filed at the behest of the Petitioner that he is involved in Nagina P.S. Case No.813 of 2021, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

9. Before releasing learned trial court is requested to verify as to whether the Petitioner has any criminal antecedent than the one noted hereinabove. If it comes to fore that the Petitioner has any criminal antecedent than the one noted hereinabove, this order shall not be given effect to.

10 Additionally, it is directed that the Petitioners shall appear before the jurisdictional police station once every two months on such date and time to be fixed by the learned Court in seisin till conclusion of trial. Certification of such appearance shall be submitted to the Court in seisin.

11. The BLAPL is accordingly disposed of.

12. Issue urgent certified copy as per rules.

Signature Not Verified
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Signed by: PRADEEP KUMAR SWAIN
Reason: Authentication
Location: Orissa High Court, Cuttack
Date: 07-Oct-2024 15:06:46

(V. NARASINGH)
Judge

PKS