IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4489 of 2024

Sonu Kumar .... ***Petitioner***

Mr. S.K. Parida, Advocate

-versus-

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

Mr. S.K. Nayak, AGA

CORAM: JUSTICE V. NARASINGH

ORDER
23.05.2024

Order No.

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

2. The Petitioner is an accused in connection with 2(a) C.C. No.61 of 2023 pending on the file of learned 1st Addl. Sessions Judge-cum-Special Judge, Cuttack, arising out of **P.R. Case No.683 of 2022-23** for commission of offence alleged under Sections 20(b)(ii)C of the NDPS 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 Cr.P.C. by the learned 1st Addl. Sessions Judge, Cuttack by order dated 18.03.2024 in the aforementioned case, the present BLAPL has been filed.

5. This is the second journey of the Petitioner to this Court, inasmuch as, it is stated in the certificate that BLAPL No.5652 of 2023 was disposed of by this Court by order dated 04.07.2023.

6. It is submitted by the learned counsel that the Petitioner is in custody since 22.03.2023 on the allegation of possessing contraband (ganja) to the tune of 81 kgs along with the co-accused.

7. It is further submitted by the learned counsel for the Petitioner that since final P.R. has already been submitted on 18.08.2023 and the trial has not commenced and that the Petitioner is the first offender, he may be released on bail.

8. Learned counsel for the State referring to the recent order 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 submits that very filing of the charge sheet indicates that the prima facie case is made out against the Petitioner and in view of the bar contained in Section 37(1)(b)(ii) of the NDPS Act, Petitioner ought not to be released on bail and since the rejection of his bail application on 04.07.2023 in BLAPL No.5652 of 2023, there is no material change in circumstance, the bail application does not merit consideration.

9. Taking into account that the Petitioner is the first offender and filing of the charge sheet and non-commencement of trial, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

10. Before releasing, learned Court in seisin is requested to verify the criminal antecedent of the Petitioner from his parent police station i.e. P.S.-Okhla, Phase No.3, Dist-South Delhi, State-Delhi. If it comes to the fore that the Petitioner has **any criminal antecedent**, this order shall not be given effect to.

11. To allay the legitimate apprehension of the learned Public Prosecutor regarding ensuring the presence of the Petitioner during trial since he does not belong to the State of Odisha, additionally, it

is directed that Petitioner shall appear before the jurisdictional police station once in 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.

12. Accordingly, the BLAPL stands disposed of.

13. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Vacation Judge

Santoshi

Signature Not Verified
Digitally Signed
Signed by: SANTOSHI LENKA
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 23-May-2024 18:32:32