IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.12159 of 2024

Khagapati Golari … ***Petitioner***

Mr. S.K. Baral, Advocate

-versus-

State of Orissa … ***Opposite Party***

Mr. S.K. Rout, APP

CORAM:
JUSTICE G. SATAPATHY

ORDER(ORAL)
12.12.2024

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).

2. This is the 3rd bail application U/S.483 of BNSS by the petitioner for grant of bail in connection with Machhakund PS Case No.08 of 2022 corresponding to TR Case No.17 of 2022 (PR No.47 of 2022) pending in the file of learned Additional Sessions Judge-cum-Special Judge, Koraput, for commission of offences punishable under Sections 20(b)(ii)(C)/29 of NDPS Act, on the allegation of transporting 309Kgs 400Grams of Contraband Ganja in the Bolero Pick-up Van without number plate as an occupant, along with co-accused persons.

3. Heard, Mr. S.K. Baral, learned counsel for the petitioner and Mr. S.K. Rout, learned Additional Public Prosecutor in the present matter and perused the record. In the course of hearing, Mr. S.K. Baral, learned counsel for the petitioner informs the Court that this is

the third bail application of the petitioner, but no bail application of the petitioner is pending before any other forum except this one.

4. It appears from the record that the petitioner has been alleged to have transported the Contraband Ganja as an occupant of the vehicle, but co-accused against whose name the vehicle stands registered has already been granted bail in BLAPL No.6802 of 2024. Further, the petitioner is in custody since 17.01.2022, but the present petitioner has been granted interim bail for a period of three months in BLAPL No.14681 of 2023 and he has surrendered to custody after the expiry of the interim bail. The quantity of Contraband Ganja seized in this case is commercial in nature and the provisions of Section 37 of NDPS Act may normally be attracted for considering the bail application. However, the report furnished by the learned trial Court as to the status of the trial in BLAPL No.8811 of 2024 discloses that only three out of fourteen charge-sheeted witnesses have been examined till today and, thereby, the time required for disposal of the case in the circumstance would be still a guess.

5. In the aforesaid situation, especially when the trial is yet to be concluded even after more than two years ten months custody of the petitioner, this Court is satisfied that the conditions of Section 37 of NDPS Act can be dispensed with, when no criminal antecedent of similar nature of the petitioner has been brought to the

notice of the Court, so also the long incarceration of the petitioner in custody without the trial been concluded in the meanwhile, which in essence infringes the right of the petitioner to speedy trial.

6. For the reason stated hereinabove and taking into account the long custody of the petitioner and the release of the co-accused on bail in BLAPL No.6802 of 2024, this Court without expressing any opinion on the merits of this case, admits the petitioner to bail.

7. Hence, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.1,00,000/- (Rupees One Lakh) only 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 by it with following conditions:-

> *(i) the petitioner shall not commit any offence while on bail,*
>
> *(ii) the petitioner in the course of trial shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with.* ***In case the Petitioner fails without sufficient cause to appear in the Court in accordance with the terms of the bail, the learned trial Court may proceed against the Petitioner for offence U/S.229-A of IPC in accordance with law,***
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> *(iii) the petitioner shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case by giving his present address of stay and*

(iv) the petitioner shall report attendance before the jurisdictional Police Station once in a fortnight preferably on 2nd Sunday of each month in between 10 A.M. to 12 Noon for three(03) months from the actual date of his release from the custody.

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. In the wake of aforesaid, the subsequent involvement of the petitioner in future for any offence under NDPS Act on prima facie accusations may be treated as a ground for cancellation of bail in this case.

8. Accordingly, the BLAPL stands disposed of.

9. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subhasmita

Signature Not Verified
Digitally Signed
Signed by: SUBHASMITA DAS
Designation: Sr. Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 13-Dec-2024 12:03:02