IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11125 of 2026
CNR No. ODHC010806182026

Dhanapati Khilla @ Gutal **.....** ***Petitioner***

Represented by Adv. - Rajib Lochan Pattnaik

-versus-

State Of Odisha **.....** ***Opposite Party***

Represented by Adv. – U.C. Jena, A.S.C.

CORAM:
MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
10.11.2026

Order No.

01. 1. This matter is taken up through Hybrid Mode.

2. Heard learned counsel appearing for the Petitioner and learned Additional Standing Counsel appearing for the State-Opposite Party. Perused the bail application as well as the documents annexed thereto.

3. The present bail application under Section 483 of B.N.S.S., 2023 has been filed by the Petitioner for regular bail in connection with Special G.R. Case No.99 of 2026, arising out of Orkel P.S. Case No.141 of 2024, pending in the court of learned Additional Sessions Judge-cum-Special Judge, Malkangiri, for alleged commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act, 1985.

4. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in jail custody since 15.09.2026. He further submitted that in the meantime investigation has been concluded and charge sheet has been filed. Further, referring to the allegation made in the FIR, learned counsel for the Petitioners contended that as per the prosecution allegation, a total quantity of 162 Kgs. of contraband Ganja was recovered from a forest. He further submitted that neither the Petitioner was present at the spot nor anything has been recovered from his exclusive and conscious possession. So far the implication of the Petitioner is concerned, it is stated that the same is on the basis of the co-accused statement. In the aforesaid context, learned counsel for the Petitioner, referring to the judgment of the Hon'ble Supreme Court in the case of ***Tofan Singh vrs. State of Tamil Nadu***, reported in ***(2021) 4 SCC 1***, submitted before this Court that such statement of the co-accused cannot be utilized against the present Petitioner. In such view of the matter, learned counsel for the Petitioner submitted that the bar under Section 37 of the N.D.P.S. Act would be attracted to the facts of the Petitioner's case. Learned counsel for the Petitioner further contended that the Petitioner does not have any similar criminal antecedents and that he belongs to the locality, therefore, there is no chance of his absconding. On such ground, learned counsel for the Petitioner submitted that the Petitioner be enlarged on bail on any terms and conditions as would be deemed just and proper by this Court.

5. Learned counsel for the State, on the other hand, opposed the release of the Petitioner on bail on the ground of gravity and seriousness of the allegation. He further contended that in the event the Petitioner is released on bail, there is every possibility that he

might abscond from justice which would eventually cause delay in conclusion of the trial. He further submitted that the cases of illegal transportation of contraband Ganja are on rise in State of Odisha now-a-days. Therefore, no leniency should be shown to the accused persons who are involved in such type of offence. On such grounds, it is submitted that the prayer for bail of the Petitioner be rejected at this juncture.

6. Considering the submissions made by the learned counsels appearing for the respective parties and on a careful examination of the surrounding facts and circumstances of the present case as well as the circumstances leading to the seizure of the contraband articles from the forest and further taking note of the fact that the Petitioner does not have any similar criminal antecedent, this Court is inclined to release the Petitioner on bail.

7. Hence, it is directed that the Petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000/- (Rupees forty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter. The release of the Petitioner shall also be subject to such other terms and conditions as would be fixed by the court in seisin over the matter. Violation of any of the terms and conditions shall entail cancellation of bail.

8. It is further directed that the bail granted to the Petitioner is subject to the condition that the court below shall verify whether the Petitioner is having any criminal antecedent of similar nature. In the event it is found that the Petitioner is having any criminal antecedent of similar nature, then this bail order shall automatically stand revoked.

9. The BLAPL is, accordingly, disposed of.

Issue urgent certified copy of this order as per Rules.

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(A.K. Mohapatra)
Judge

Anil

Signature Not Verified
Digitally Signed
Signed by: ANIL KUMAR SAHOO
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 11-Nov-2026 15:05:58