



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.12637 of 2023

Tarak Biswas

.....

Petitioner

Represented By Adv. -
Mr.dinabandhu
Nayak,guruprasad Behera
,dinabandhu Nayak

-versus-

State Of Odisha

.....

Opposite Parties

Represented By Adv. –
Mr. M.K. Mohanty, ASC

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

26.07.2024

Order No.

- 04.
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 materials placed before this Court.
 3. The present bail application under Section 439 of Cr.P.C. has been filed by the Petitioner for regular bail relating to Sahadevkhunta P.S. Case No.414 of 2023, corresponding to SPL Case No.298 of 2023, pending before the learned Special Judge, Balasore for alleged commission of offence punishable under Section 20(b)(ii)(C) of NDPS Act.



4. Learned counsel for the Petitioner submits that earlier this matter was not before any other Bench of this Court. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 18.10.2024. He further contended that the investigation has been completed and the final PR has been submitted. It was also contended that the Petitioner has been falsely implicated in the present case. Learned counsel for the Petitioner further contended that as per allegation of the FIR, the total quantity of 15 kg and 440 gm of contraband ganja has been recovered from the possession of the present Petitioner. Although, a total quantity of 43 kg 600 gm of contraband ganja was recovered from three persons from the spot. The alleged quantity of contraband ganja recovered from the possession of the Petitioner is less than the commercial quantity, therefore, the bar under section 37 is not attracted to the facts of the present case. In such view of the matter, learned counsel for the Petitioner submitted that the Petitioner be released on bail on any terms and condition which the Petitioner undertakes to abide by while on bail.

5. Learned counsel for the State on the other hand contended that the allegations made in the FIR are serious in nature. It was further contended that the Petitioner is an outsider and he has a similar criminal antecedent, therefore, in the event he is released on bail he might abscond justice which might lead to delay in conclusion of trial. Learned counsel for the State opposed the release of the Petitioner in view of the nature and seriousness of allegation made against the Petitioner. Therefore, he submitted that the prayer for bail of the Petitioner be rejected at this juncture.

6. Having heard learned counsel for the respective parties and on careful consideration of the surrounding facts as well as materials on



record, and the fact that the alleged quantity of contraband article is less than the commercial quantity and the bar under section 37 is not attracted to the facts of the present case, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty Thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter. Release of the Petitioner shall also be subject to following conditions:-

- i) The Petitioner shall also file an affidavit before the Trial Court indicating therein his residential details and other details like Aadhaar No., Phone No. before the jurisdictional police station and the release of the Petitioner shall be subject to verification of the aforesaid details and such details as would be furnished by any relative of the Petitioner in the shape of an affidavit.
- ii) he shall not be involved in any offence of similar nature while on bail;
- iii) he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever,
- iv) he shall not make any default in attending the court during trial on each date without fail.
- v) he shall appear before the concerned Police Station once in a fortnight preferably on 'Sunday' in between 10.00 A.M to 1.00 P.M. till conclusion of the trial.

Violation of any of the terms and conditions shall entail cancellation of bail.

7. 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 similar criminal antecedent. In the event it is found that the Petitioner is having more than one similar criminal antecedent, this bail order shall automatically stand revoked. Violation of any of the terms and conditions shall entail cancellation of bail.

8. The BLAPL is, accordingly, disposed of.

(A.K. Mohapatra)
Judge

S.K. Rout