



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.13659 of 2023**

***Bapan Sarkar***

....

***Petitioner***

*Mr. H. Mohanty, Advocate*

*-versus-*

***State of Odisha***

....

***Opp. Party***

*Mr. Priyabrata Tripathy*

*Addl. Standing Counsel*

**CORAM:**

**THE HON'BLE MR. JUSTICE S.K. SAHOO**

**ORDER**

**Order No.**

**16.08.2024**

05. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with K. Nuagaon P.S. Case No.30 of 2020 corresponding to C.T. Case No.25 of 2020 pending in the Court of learned Additional Sessions Judge -cum- Special Judge, Balliguda for offences punishable under sections 20(b)(ii)(C)/27-A/25/29 of N.D.P.S. Act.

In pursuance of the order dated 02.08.2024,



learned counsel for the State has produced the written instruction received from the Inspector-in-charge, K. Nuagaon Police Station dated 14.08.2024 to the effect that the documents of the sureties, namely, Jara Mallick and Betru Digal are found to be genuine and they also expressed their willingness to stand as sureties for the petitioner and on verification of criminal antecedent, nothing adverse was found against these sureties. The written instruction is taken on record.

Learned counsel for the petitioner submitted that as per the order of this Court, the petitioner voluntarily surrendered before the learned trial Court on 02.12.2022 and the petitioner was not apprehended at the spot and the only allegation against the petitioner is that some money has been transferred from his account to the account of one Sunil Digal, who is a co-accused in this case and the said Sunil Digal has already been granted bail by this Court in BLAPL No.7901 of 2021 as per order dated 14.02.2022, copy of which has been annexed as Annexure-9. Learned counsel further submitted that other co-accused persons have already been released on bail and since there is no clinching evidence on record relating to the involvement of the petitioner in the commission of crime, the bail application of the petitioner may be favourably considered.



Learned counsel for the State opposed the prayer for bail and contended that it is a case of seizure of commercial quantity of ganja and in view of bar under section 37 of the N.D.P.S. Act, the petitioner is not entitled to be released on bail.

Considering the submissions made by the learned counsel for the respective parties, in view of the available materials on record, since it cannot be said that the petitioner is guilty of the offence and in absence of any criminal antecedent, it cannot be said that while on bail, the petitioner is likely to commit any offence, keeping in view the provision of section 37 of the N.D.P.S. Act, the nature of accusation against the petitioner, release of the co-accused persons on bail, I am inclined to release the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter subject to conditions that he shall not tamper with the evidence, shall not indulge himself in any criminal activities and shall appear before the learned trial Court on each date to which the case would be posted for trial.

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



BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

**( S.K. Sahoo )**  
**Judge**

M.K.Rout