
(2023) 05 OHC CK 0168
In the Orissa High Court
Case No : Bail Application No. 4407 Of 2023

Abhaya Sahu And Others

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 10-05-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 21(c), 29

Citation : (2023) 05 OHC CK 0168

Hon'ble Judges : G. Satapathy, J

Bench : Single Bench

Advocate : U.R. Jena, S.S. Pradhan

Final Decision : Disposed Of

Judgement

G. Satapathy, J

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an application U/S.439 of Cr.P.C. by the petitioners for grant of bail in connection with Special G.R. Case No.17 of 2023 arising out of Balangir Town P.S. Case No.120 of 2023 pending in the file of learned District Judge-cum-Special Judge, Balangir for commission of offences punishable under Sections 21(c) & 29 of N.D.P.S. Act on the allegation of supplying huge consignment of ESKUF Cough Syrup each containing 100 ml. @ 2.59 grams of codeine phosphate per bottle with a total of 2.592 Kgs. of contraband codeine phosphate.
3. In the course of hearing of bail application, Mr. U.R.Jena, learned counsel for the petitioners submits that the present petitioners are no way connected with the commission of the crime and they were not found with conscious possession of any contraband article. It is further submitted that not a single Cough Syrup bottle was recovered from the possession of the petitioners. On these grounds, learned counsel for the petitioners prays to grant them bail.

4. Mr.S.S.Pradhan, learned AGA, however, strongly opposes the bail application of the petitioners, but on being asked, he submits that no Cough Syrup was recovered from the possession of the petitioners and the present petitioners were implicated in this case on the basis of statement of co-accused persons.

5. After having considered the rival submissions advanced on behalf of the parties and taking into consideration the nature and gravity of accusations raised against the petitioners and keeping in view the manner and circumstance of implication of the present petitioners in this case and as submitted, no Cough Syrup was found from the possession of the petitioners and taking into consideration the other circumstance on record in entirety and regard being had to the pre-trial detention of the petitioners since 13.03.2023 without any report of any criminal antecedent against them and lastly, the law laid down by Apex Court in Tofan Singh Vrs. State of Tamil Nadu; (2020) 80 OCR (SC) 641, this Court admits the petitioners to bail.

5. Hence, the bail application of the petitioners stands allowed and the petitioners are allowed to go on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) 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 petitioners shall not commit any offence while on bail.

(ii) the petitioners shall attend the trial Court on each date of posting without fail unless their attendance are dispensed with.

(ii) the petitioners shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

(iii) the petitioners shall report attendance before the Jurisdictional Police Station once in a week preferably on Sunday in between 10 A.M. to 12 Noon for six(06) months from the actual date of release from the custody.

The I.I.C. of Jurisdictional Police Station shall not detain the petitioners 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 petitioners 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 petitioners for similar type of offence in future on prima facie accusations may be treated as a ground for cancellation of bail.

6. Accordingly, the BLAPL stands disposed of.

7. Urgent certified copy of the order be granted on proper application.

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