

(2024) 03 OHC CK 0108

In the Orissa High Court

Case No : Bail Application No. 939 Of 2024

Akshaya Kumar Nath @ Kalia

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 14-03-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 20(b)(ii)(C)

Citation : (2024) 03 OHC CK 0108

Hon'ble Judges : V. Narasingh, J

Bench : Single Bench

Advocate : S. Sahoo, S. Pattnaik

Final Decision : Disposed Of

Judgement

V. Narasingh, J

1. Heard the learned counsel for the Petitioner and learned counsel for the State.
2. The Petitioner is an accused in connection with T.R. No.262 of 2023 pending on the file of learned Addl. Dist & Sessions Judge, Bhubaneswar, arising out of Bharatpur P.S. Case No. 200 of 2023 for commission of offence alleged under Sections-20(b)(ii)(c) of NDPS Act.
3. Learned counsel, on instruction, submits that except the present BLAPL, no other bail application of the Petitioner relating to the aforementioned P.S. case is pending in any other Court.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned 5th Addl. Sessions Judge, BBSR, I/c, by order dated 26.12.2023 in the aforementioned case, the present BLAPL has been filed.
5. This is the third journey of the Petitioner to this Court. Earlier this Court did not entertain BLAPL No. 6950 of 2023 of the Petitioner vide order dated 30.06.2023 during the currency of investigation and taking into account the

contraband to the tune of 30 Kgs 400 grams. Post charge sheet the bail application of the Petitioner was allowed by order dated 18.12.2023 by common order passed by this Court in BLAPL No.13109 of 2023, subject to verification of criminal antecedent.

6. It is submitted by the learned counsel for the Petitioner, on instruction that since it was brought to the notice of the learned Special Judge while considering the release that the Petitioner has one criminal antecedent, the bail application of the Petitioner was rejected. Hence this bail application.

7. It was urged during the hearing that the Petitioner has no criminal antecedent and in fact erroneous information was submitted before the learned Court in seisin.

8. Learned counsel for the State opposes the prayer for bail.

9. Considering the same, a report was called for regarding criminal antecedent from IIC Bharatpur PS. In his report it has been stated that except the case at hand, there is no other case. The said report is taken on record.

10. Taking into account the same, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned court in seisin.

11. Before parting with the case at hand, learned counsel for the State is called upon to communicate the displeasure of this Court to the concerned IIC through the DCP, Bhubaneswar for not submitting correct information relating to criminal antecedent, before the learned Court in seisin for which the Petitioner had to languish in custody, in spite of orders being passed. Such lackadaisical approach can never be countenanced and this Court fervently hopes that necessary corrective measure shall be taken.

12. A copy of this order be made over to the learned Counsel for the State to do the needful.

13. Accordingly, the BLAPL stands disposed of.

14. Urgent certified copy of this order be granted in course of the day.

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