

(2024) 05 OHC CK 0239
In the Orissa High Court
Case No : Bail Application No. 5378 Of 2024

Jyotirmaya Mahakuda @ Pintu

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 28-05-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Narcotics Drugs and Psychotropic Substances Act, 1985 — Section 20(b(ii)(C), 25, 27, 29, 37, 37(1)(b)(ii)

Citation : (2024) 05 OHC CK 0239

Hon'ble Judges : V. Narasingh, J

Bench : Single Bench

Advocate : B.P. Das, P.K. Maharaj

Final Decision : Disposed Of

Judgement

V. Narasingh, J

1. Heard learned counsel for the Petitioner and learned counsel for the State.
2. The Petitioner is an accused in connection with T.R. Case No.75 of 2024 pending on the file of learned Addl. Sessions Judge-cum-Special Judge, Gunupur, arising out of Padmapur P.S. Case No.60 of 2024 for commission of offence alleged under Sections 20(b(ii)(C)/25/27/29 of the N.D.P.S 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 Addl. Sessions Judge-cum-Special Judge, Gunupur by order dated 15.05.2024 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel that the Petitioner is in custody since 9.5.2024 on the accusation that he is in possession of contraband to the tune of

22 Kg. (ganja).

6. It is further submitted by the learned counsel that wrong weightment cannot be ruled out so as to attract the rigors of Section 37 of the N.D.P.S Act.

7. It is stated that the implication of the Petitioner is on account of the co-accused statement of one Samiullah Khan. Hence, Petitioner in BLAPL No.5374 of 2024 was directed to be released.

8. It is further stated that the Petitioner is the first offender.

9. Learned counsel for the State opposes the prayer for bail in view of the bar contained in Section 37(1)(b)(ii) of the N.D.P.S Act.

10. Taking into account the progress in investigation and since the Petitioner is the first offender as stated, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

11. Before releasing, learned Court in seisin is requested to verify as to whether Petitioner has any criminal antecedent. If it comes to fore that the Petitioner has any criminal antecedent, this order shall not be given effect to.

12. Additionally, it is directed that the Petitioner shall appear before the jurisdictional police station once every month on such date and time to be fixed by the learned Court in seisin till submission of final form. Certification of such appearance shall be submitted to the Court in seisin.

13. The BLAPL thus stands disposed of.

14. Urgent certified copy of this order be granted as per rules.

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