
(2024) 03 OHC CK 0149
In the Orissa High Court
Case No : Bail Application No. 315 Of 2024

Kabuli @ Prasanna Routray

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 19-03-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 20(b)(ii)(B), 20(b)(ii)(C), 37

Citation : (2024) 03 OHC CK 0149

Hon'ble Judges : Savitri Ratho, J

Bench : Single Bench

Advocate : Somanath Mitra, S.S.Mohapatra

Final Decision : Dismissed

Judgement

Savitri Ratho, J

1. This application under Section 439 of Cr.P.C. has been filed in connection with Baliana P.S. Case No.375 of 2023 corresponding to T.R. Case No.560 of 2023, pending in the Court of the learned District and Sessions Judge, Khurda at Bhubaneswar under Section 20 (b) (ii) (B) of the NDPS Act.

This application has been listed before me as BLAPL No.13002 of 2023 of 2023 filed by the co-accused-Ananta Bala @ Gudu has been disposed of by me on 12.12.2023.

2. The prayer for bail of the petitioner alongwith co-accused-Jalandhar Swain @ Jalia and Gudu @ Ananta Bala had been rejected by a common order dated 08.11.2023 by the learned Sessions Judge, Khurda at Bhubaneswar as the investigation was at a nascent stage.

3. The prosecution allegations in brief against the petitioner are that on 03.11.2023 afternoon, while the informant and his team were performing patrolling duty at Baliana Bazar, they received credible information regarding

transportation of ganja in a passenger auto bearing Registration No. OD-02D-3668 from Nuagaon side, being escorted by an Apache motor cycle bearing Registration No. OD-02BM-0726. The informant and his team proceeded to the spot and detained the auto rickshaw as well as the motorcycle and during search, 9.630 kgs. of contraband ganja was seized from the auto rickshaw. The petitioner was the occupant of the auto rickshaw. As the petitioner and co-accused persons - Ananta Bala @ Gudu and Jalandhar Swain @ Jalia and Gudu @ Ananta Bala would not produce any authority for possession of said ganja, the ganja was seized and they were arrested at the spot.

4. Mr. Somanath Mitra, learned counsel for the petitioner submits that the petitioner is in custody since 04.11.2023 and in the meanwhile investigation has been completed. He further submits that in view of quantity of ganja seized, Section 37 of the NDPS Act will not be a bar for releasing the petitioner on bail. He further submits that two criminal antecedents have been attributed against the petitioner, one for the offence under Section 20 (b) (ii) (B) is of the year 2016 and another is under Section 20 (b) (ii) (C) of the NDPS Act of the year 2020. The petitioner was the occupant of the auto rickshaw. He further submits that the petitioner had been granted bail by this Court in BLAPL No.9511 of 2020 disposed of on 07.01.2020 in connection with Laxmisagar P.S. Case No.268 of 2020 which had been registered under Section 20 (b) (ii) (c) of the NDPS Act.

5. Mr.S.S.Mohapatra, learned Addl. Standing Counsel opposes the prayer for bail stating that the ganja in question has been recovered from the possession of the petitioner and he was the occupant of the auto rickshaw. He further submits that in view of the criminal antecedents of the petitioner which are of similar nature, he should not be released on bail.

6. Perused the order dated 07.01.2022 passed in BLAPL No.9511 of 2020. While releasing the petitioner on bail, condition No.(ii) had been imposed, which reads as follows:

"He shall not indulge himself in any criminal offence while on bail."

7. In view of the fact that the petitioner has two criminal antecedents of similar nature, I am not inclined to release the petitioner on bail at this stage.

8. The BLAPL is accordingly dismissed.

9. Liberty is granted to the petitioner to move the learned Court below for bail afresh in case there is delay in completion of the trial.

10. Urgent certified copy of this order be granted on proper application.

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