

(2022) 03 OHC CK 0207

In the Orissa High Court

Case No : Bail Application No. 1381 Of 2021

Pas Golden Md.Rajak @ Md.Rajak

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 31-03-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Narcotic Drugs and Psychotropic Substances Act of 1985 — Section 21(c), 29, 37

Citation : (2022) 03 OHC CK 0207

Hon'ble Judges : S.K. Sahoo, J

Bench : Single Bench

Advocate : N.R. Sahoo, J.P. Patra

Final Decision : Disposed Of

Judgement

S.K. Sahoo, J

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 T.R. Case No.67 of 2020 arising out of Mithili P.S. Case No.98 of 2020 pending in the Court of learned Sessions Judge -cum- Special Court, Malkangiri for offences punishable under sections 21(c) and 29 of the N.D.P.S. Act.

The petitioner moved an application for bail before the Court of learned Sessions Judge -cum-Special Court, Malkangiri, which was rejected on 14.07.2020.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 10.07.2020 and his implication in the case is based on the confessional statement of the co-accused before the police. It is further submitted that there is inordinate delay in the disposal of the trial and therefore, the bail application of the petitioner may be favourably considered.

Learned counsel for the State, on the other hand, submitted that from the possession of the petitioner, one Aadhar card, one mobile phone and contraband articles were seized.

The status report furnished by the learned trial Court dated 17.02.2022 indicates that out of nineteen charge sheet witnesses, nine witnesses have been examined so far in the learned trial Court.

Considering the submissions made by the learned counsel for the respective parties, the nature of accusation against the petitioner, the fact that nothing incriminating has been seized from the possession of the petitioner and his implication in the case is based on the confessional statement of co-accused persons before police and in view of the decision of the Hon'ble Supreme Court in the case of Tofan Singh -Vrs.- State of Tamil Nadu reported in (2020) 80 OCR (SC) 641 and keeping in view the provisions under section 37 of the N.D.P.S. Act and the period of detention of the petitioner in judicial custody, I am inclined to release the petitioner on bail. Let the petitioner be released on bail in the aforesaid case on furnishing cash security of Rs.50,000/- (fifty thousand) along with 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 with further terms and conditions as the learned Court may deem just and proper including the following conditions:

- (i) the petitioner shall not indulge in any criminal activities while on bail;
- (ii) he shall appear before the learned trial Court on each date to which the case would be posted for trial;
- (iii) he shall not leave the jurisdiction except with the permission of the learned trial Court; Violation of any of the conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

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