

(2024) 05 OHC CK 0275

In the Orissa High Court

Case No : Bail Application No. 3937 Of 2024

Raghu Bhumia @ Raghu Teka

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 23-05-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Narcotics Drugs and Psychotropic Substances Act, 1985 — Section 20(b)(ii)(C), 25

Citation : (2024) 05 OHC CK 0275

Hon'ble Judges : V. Narasingh, J

Bench : Single Bench

Advocate : P.K. Nanda, S.K. Nayak

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 Spl. G.R. Case No.178 of 2023 pending on the file of learned Sessions Judge-cum-Special Judge, Malkangiri, arising out of Malkangiri P.S. Case No.466 of 2023 for commission of offence alleged under Sections 20(b)(ii)(C)/25 of the 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 Sessions Judge-cum-Spl. Judge, Malkangiri by order dated 23.02.2024 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel that the occurrence in question took place on 25.08.2023 on which date contraband (ganja) to the tune of 50 kgs was seized.

6. It is also submitted that the Petitioner is in custody since 31.12.2023 and as charge sheet has already been filed on 12.02.2024, he may be released on bail.

7. It is the further submission of the learned counsel for the Petitioner that the basis of implication is on account of statement of the co-accused Rama Chandra Pangi, who was nabbed at the spot. Hence relying on the dictum of the Apex Court in the case of Tofan Singh vrs. State of Tamil Nadu, reported in (2021) 4 SCC 1 and the State of Haryana vrs. Samarth Kumar reported in 2022 Live Law (SC) 622, Petitioner seeks release.

8. On instruction, it is stated by the learned counsel that the Petitioner is the first offender.

9. It is further submitted that one of the co-accused, namely, Iswar Kalar @ Iswar Kalan similarly placed has since been released on bail by this Court by order dated 15.05.2024 in BLAPL No.3360 of 2024. Hence Petitioner seeks release, inter alia, on the ground of parity.

10. Learned counsel for the State opposes the prayer for bail in view of the bar contained in Section 37(1)(b)(ii) of the NDPS Act and keeping in view the order of the Apex Court in the case of State by the Inspector of Police vs. B. Ramu in SLP(Crl.) No(s).8137 of 2022 dated 12.02.2024.

11. Taking into account that the prosecution has cited 22 witnesses to drive home the charge, trial is yet to commence, as stated and the basis of implication and that the Petitioner having his home and hearth within the jurisdiction of the learned Court in seisin, and release of the co-accused, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

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

13. Additionally, it is directed that 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 conclusion of trial. Certification of such appearance shall be submitted to the Court in seisin.

14. Accordingly, the BLAPL stands disposed of.

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

.....