

(2024) 05 OHC CK 0267
In the Orissa High Court
Case No : Bail Application No. 3496 Of 2024

Rina Jena@reena Jena

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 21-05-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Narcotics Drugs and Psychotropic Substances Act, 1985 — Section 21(b), 37

Citation : (2024) 05 OHC CK 0267

Hon'ble Judges : A.K. Mohapatra, J

Bench : Single Bench

Advocate : Sarfaraz Ahmed, D.Nayak

Final Decision : Disposed Of

Judgement

A.K. Mohapatra, J

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel appearing for the Petitioner and learned Additional Government Advocate appearing for the State-Opposite Party. Perused the materials placed before this Court.
3. The present bail application under Section 439 of Cr.P.C. has been filed by the Petitioner for regular bail in connection with T.R. Case No.100 of2024, arising out of BharatpurP.S. Case No. 131 of 2024, pending in the Court of learned District and Sessions Judge, Khurda, At-Bhubaneswar for alleged commission of offences punishable under Sections 21(b) of the N.D.P.S. Act.
4. It is submitted by the learned counsel for the Petitioner that earlier this matter was not before any other Bench of this Court. He further submitted that the Petitioner is in custody since 28.02.2024. He further submitted that investigation has been concluded and the final charge sheet has been submitted. Further, referring to the allegations made in the F.I.R. the quantity of brown sugar seized,

i.e., 13.22 gms., which is recovered from the possession of the Petitioner. He further contended that the petitioner has been falsely implicated in the present case. Further contended that the Petitioner is having one similar criminal antecedent. Further contended that the Petitioner belongs to the locality and there is no chance of absconding. On such ground, it is submitted by the learned counsel for the Petitioner that the Petitioner be released on bail on any terms and condition which he shall abide by while on bail.

5. Learned Additional Government Advocate appearing for the State-Opposite Party, on the other hand, opposed the release of the Petitioner on bail on the ground that allegations made against the Petitioner are serious in nature. Further contended that petitioner is having one similar criminal antecedent. He further submitted that the cases of illegal transportation of contraband article are on rise in State of Odisha now-a-days. Therefore, no leniency should be shown to the accused persons who are involved in such type of offence. In such view of the matter, it is submitted that the prayer for bail of the Petitioner be rejected at this juncture.

6. Considering the submissions made by the learned counsels appearing for the respective parties and on a careful examination of the materials on record as well as the fact that the seized quantity of contraband article being the less than the commercial quantity, the bar under Section 37 of the N.D.P.S. Act would not be attracted to the facts of the present case, this Court is inclined to release the Petitioner on bail on stringent conditions.

7. Hence, it is directed that the Petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.25,000/-(Rupees Twenty Five thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter. The release of the Petitioner shall also be the following terms and conditions:-

- I. he shall not be involved in any offence of similar nature;
- II. he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;
- III. he shall not make any default in attending the court during trial;
- IV. he shall appear before the concerned Police Station once in a week preferably on 'Sunday' in between 10.00 A.M. to 1 P.M. for a period of six weeks, thereafter once in a fortnight for a period of two months, thereafter once in a month till conclusion of the trial; and
- V. he shall not leave the jurisdiction of the Court in seisin over the matter.

Violation of any of the terms and conditions shall entail cancellation of bail.

8. It is further directed that the bail granted to the Petitioner be subject to the condition that the court below shall verify the criminal antecedent of the Petitioner. In the event the Petitioner is having more than one similar criminal

antecedent, this bail order shall automatically stand revoked.

9. The BLAPL is, accordingly, disposed of.

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