

(2024) 05 OHC CK 0253
In the Orissa High Court
Case No : Bail Application No. 1649 Of 2024

Roji Bibi

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 0253

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

Bench : Single Bench

Advocate : Amlan Shakti Paul, P.C.Das

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 for the Petitioner as well as learned Additional Standing Counsel for the State. Perused the materials placed before this Court.
3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with E.I. & E.B. Unit-1, Cuttack P.R.No.547/2023-24 dated 22.01.2024 corresponding to T.R. No.34 of 2024 pending in the Court of the learned District & Sessions Judge, Khurda at Bhubaneswar for alleged commission of offence under Sections 21(b) of the N.D.P.S.Act.
4. Learned counsel for the Petitioner submits that earlier this matter was not before any other Bench of this Court. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in custody since 22.01.2024. It is also contended that the enquiry of the case has been concluded and the final P.R. has been submitted. He further contended that as per the F.I.R. allegation, a

total quantity of 173 grams of contraband brown sugar was seized from the possession of the Petitioner, which is less than commercial quantity. As such, bar under section 37 of the Act is not attracted to the present case. It is also submitted by the learned counsel for the Petitioner that the Petitioner has been falsely implicated in the present case and contraband article was not recovered from the exclusive and conscious possession of the Petitioner. He also contended that since the Petitioner belongs to the locality, there is no chance of absconding. He also contended that the Petitioner does not have any criminal antecedent of similar nature. On such ground, learned counsel for the Petitioner prays for release of the Petitioner on bail on suitable terms and conditions.

6. Learned Additional Standing Counsel appearing for the State-Opposite Party, on the other hand, opposed the prayer for release of the Petitioner on bail on the ground that allegations made against the Petitioner is serious in nature. 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. He also contended that the investigation is still on. In such view of the matter, it is submitted that the prayer for bail of the Petitioner be rejected at this juncture.

7. Having heard learned counsels for the parties, on careful examination of the materials on record and further taking into consideration the fact that the investigation has been concluded and final P.R. has been submitted and the bar under section 37 of the Act is not attracted, as well as taking into consideration the period of custodial detention of the Petitioner, this Court is inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter with the following terms and conditions.

I) The Petitioner shall not be involved in any similar nature of offence while on bail;

II) she shall appear before the trial court on each and every date fixed.

IV) shall appear before the local Police Station once in a week preferably on Sunday between 10 A.M. to 1 P.M. for a period of three months and thereafter once in a fortnight for a period of three months and once in a month till conclusion of the trial.

V) she shall not leave the jurisdiction of the trial court without prior permission of the trial court.

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

8. BLAPL is accordingly disposed of. Issue urgent certified copy as per Rules.

.....