

(2024) 05 OHC CK 0183

In the Orissa High Court

Case No : Bail Application No. 3201 Of 2024

Salim Riyajuddin Ali @ Salim Ali

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 20-05-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

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

Citation : (2024) 05 OHC CK 0183

Hon'ble Judges : V. Narasingh, J

Bench : Single Bench

Advocate : P. Naidu, T.K. Praharaj

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 2(a) C.C. Case No.18 of 2023 pending on the file of learned Sessions Judge-cum-Special Judge, Balangir, arising out of P.R. Case No.58 of 2023-24 for commission of the alleged offence under Sections 20(b)(ii)C 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 Special Judge, Balangir by order dated 15.02.2024 in the aforementioned case, the present bail application has been filed.
5. It is submitted by the learned counsel that the Petitioner is in custody since 22.07.2023 on the allegation of possessing contraband (ganja) to the tune of 21 kgs along with co-accused.

6. It is further submitted that the co-accused has been released on bail by order dated 2.9.2023 in BLAPL No.9169 of 2023. Hence, inter alia, on the ground of parity, the Petitioner seeks release.

7. It is stated that the Petitioner is the first offender.

8. Learned counsel for the State opposes the prayer for bail relying on the bar contained in Section 37(1)(b)(ii) of the NDPS Act and submits that in view of the recent pronouncement 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 and since prima facie case is well made out against the Petitioner, he ought not to be released on bail.

9. Taking into account the filing of the charge sheet, release of the co-accused and the dictum of the Apex Court in the case Satender Kumar Antil vrs. Central Bureau of Investigation & Another, reported in 2022 (10) SCC 51, inter alia, on the ground of parity, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned Court in seisin subject to verification of criminal antecedent.

10. If it comes to fore that the Petitioner has any criminal antecedent, this order shall not be given effect to.

11. Additionally, it is directed that Petitioner shall appear before the jurisdictional police station once every week 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.

12. Accordingly, the BLAPL stands disposed of.

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

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