

(2024) 06 OHC CK 0006
In the Orissa High Court
Case No : Bail Application No. 5031 Of 2024

Sk. Raju @ Sk. Rajo

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 21-06-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Narcotics Drugs and Psychotropic Substances Act, 1985 — Section 20(b)(ii)(C), 29,
37(1)(b)(ii)

Citation : (2024) 06 OHC CK 0006

Hon'ble Judges : V. Narasingh, J

Bench : Single Bench

Advocate : C. Behera, 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 T.R. Case No.297 of 2023(A), pending before the Court of learned 3rd Additional Sessions Judge, Bhubaneswar, arising out of Bharatpur P.S. Case No.245 of 2023, for commission of alleged offences under Sections 20(b)(ii)(C)/29 of 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 3rd Additional Sessions Judge, Bhubaneswar by order dated 02.05.2024 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel that the Petitioner was taken into custody on 19.04.2024 on the allegation that he along with co-accused were

involved in the transportation of contraband (ganja) to the tune of 31Kgs 450gms.

6. It is submitted by the learned counsel for the Petitioner that charge sheet has been filed on 28.11.2023.

7. Learned counsel for the Petitioner further submits that admittedly the Petitioner was not apprehended at the spot and his basis of implication was on account of the co-accused statement namely, Chasama Digal @ Susama Digal, Lingaraj Ghatual and Anjali Behera @ Anjali Sahani.

8. It is submitted that the said co-accused were since been released on bail by this Court by orders dated 14.07.2023, 28.07.2023 & 04.10.2023 in BLAPL Nos.6887, 7898 & 10526 of 2023 respectively. Hence, the Petitioner seeks release inter alia on the ground of parity.

9. With fairness, learned counsel for the Petitioner submits that the Petitioner was cited as an accused in Khandagiri P.S. Case No.418 of 2022 in which the allegation was of similar nature and in the said case he has been released on bail.

10. Learned counsel for the State opposes the prayer for bail keeping in view the rigors of the Section 37(1)(b)(ii) of the NDPS Act and relying on 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 submits that since charge sheet has been filed prima facie case is well made out against the Petitioner. Hence, he ought not to be released on bail.

11. Considering the release of the co-accused and the nature of allegation, 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 as to whether the Petitioner has any other criminal antecedent other than Khandagiri P.S. Case No.418 of 2022 and the case at hand. If it comes to the fore that the Petitioner has any criminal antecedent other than Khandagiri P.S. Case No.418 of 2022 and the case at hand, 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.

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