
(2024) 01 OHC CK 0124
In the Orissa High Court
Case No : Bail Application No. 7889 Of 2023
Somanath Pradhani Vs State Of Odisha ?

Date of Decision : 12-01-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

Narcotic Drugs and Psychotropic Substances Act, 1985 — Section 20(b)(ii)(C), 29, 37

Citation : (2024) 01 OHC CK 0124

Hon'ble Judges : M.S. Sahoo, J

Bench : Single Bench

Advocate : Julu Khansama, S.N. Das

Final Decision : Disposed Of

Judgement

M.S. Sahoo, J

1. The BLAPL has been filed by the petitioner seeking his release on bail, under Section 439 Cr.P.C., the petitioner is in jail custody in connection with Machhakunda P.S. Case No.112 of 2022 corresponding to T.R. Case No.128 of 2022 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Koraput, for alleged commission of offences under Sections 20(b) (ii) C/29 of NDPS Act. The application for bail before the learned Additional Sessions Judge-cum-Special Judge, Koraput was rejected by order dated 15.05.2023 in T.R. Case No.128 of 2022.

2. Learned counsel for the petitioner refers to the affidavit dated 03.01.2024 filed on behalf of the petitioner through his father indicating that there is no past allegations of criminal activity against the petitioner.

It is submitted by the learned counsel for the petitioner that the petitioner is in custody since 02.10.2022 and in the meanwhile, the Final Prosecution

Report has been submitted on 02.04.2023. It is submitted considering the period of incarceration and the fact that the F.P.R. has been submitted and the petitioner being aged about 23 years, he should be shown indulgence as far as prayer for bail is concerned.

It is submitted that the petitioner is owner of the vehicle from which the contraband was seized. It is submitted that the petitioner cannot be attributed conscious possession of the contraband.

It is further submitted by the learned counsel for the petitioner that the petitioner is a local resident and shall subject himself to the jurisdiction of the learned court in seisin of the matter and shall abide by the terms and conditions that would be imposed if the Court is inclined to grant bail to the petitioner.

3. The learned Addl. Standing Counsel for the State opposes the prayer for bail referring to the nature of allegations, materials contained in the case diary and the provisions contained in Section 37 of the NDPS Act.

However, it is not disputed at the bar that the petitioner is aged about 23 years and Final Prosecution Report has already been submitted on 02.04.2023.

It is agreed at the bar that the instructions furnished in the affidavit on behalf of the petitioner dated 03.01.2024 regarding past allegations of criminal activity is in sync with the report furnished by the police contained in the case diary.

4. Having heard the learned counsel for the petitioner and learned Additional Standing Counsel for the State, considering the materials on record, this Court is inclined to grant bail to the petitioner subject to such stringent terms and conditions that would be imposed by the learned court in seisin of the matter, which shall also include the following conditions:

Two sureties for an amount to the satisfaction of the learned court in seisin of the matter, out of the two sureties one shall be a family member of the petitioner and the other shall be a local person;

the court in seisin of the matter shall ensure and verify the credential of the sureties, the court shall direct and record its satisfaction;

the petitioner shall not in any manner make any inducement, threat or promise to the prosecution witnesses so as to dissuade them from disclosing truth before the court and shall not tamper with the evidence;

the petitioner shall not indulge himself in similar activity;

the petitioner shall surrender his passport if any, before the learned court in seisin of the matter and will not leave India without prior permission of the Court and in the event the petitioner has not been issued with any passport, he would submit an affidavit stating the said fact;

the petitioner shall appear before the concerned authority as would be so required for the purpose; he shall appear before the police having jurisdiction of his area of residence, if directed by the learned court in seisin of the matter in the manner to be decided by the learned court;

the petitioner shall fully cooperate with the ongoing further investigation and make himself available anywhere as and when required for such purpose;

the petitioner shall be available to be contacted over mobile phone and such phone should remain active and normally not be changed, and in case of any change of mobile number of the petitioner for any bona fide reason, the same shall be communicated to the Investigating Agency;

the petitioner shall co-operate with the trial and shall not seek unnecessary adjournments on frivolous grounds to protract the trial;

the petitioner shall not indulge in any criminal activity or commission of any crime after being released on bail; In case of his involvement in any other criminal activities or breach of any condition imposed for grant of bail, the investigating agency shall file petition for cancellation of bail;

5. The BLAPL is disposed of.

Urgent certified copy of this order be granted on proper application.

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