

(2023) 07 OHC CK 0043

In the Orissa High Court

Case No : Bail Application No. 1164 Of 2023

Soumya Ranjan Mohanty

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 04-07-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439

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

Citation : (2023) 07 OHC CK 0043

Hon'ble Judges : V. Narasingh, J

Bench : Single Bench

Advocate : S. Satapathy, K.K. Gaya

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.06 of 2023, pending in the Court of the learned Sessions Judge-cum-Special Judge, Cuttack, arising out of P.R. No.429 of 2023, for alleged commission of offences under Section 20(b)(ii)(C) of NDPS Act.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Cuttack, by order dated 24.01.2023 in the aforementioned case, the present BLAPL has been filed.
4. Learned counsel for the Petitioner submits that the Petitioner was released on interim bail by order dated 14.03.2023 and on instruction, it is stated that after expiry of the interim bail period, the Petitioner has surrendered on 27.04.2023.
5. It is submitted by the learned counsel that the Petitioner along with three others were taken into custody on 17.01.2023 on the accusation of possessing contraband to the tune of 60Kgs (Ganja).

6. It is stated with vehemence that independent seizures have been clubbed together so as to attract the rigors of Section 37 of the NDPS Act.

7. Learned counsel for the petitioner relies on the orders passed by this Court dated 21.06.2023 and 23.06.2023 in BLAPL Nos.6242 & 3033 of 2023 respectively and seeks release inter alia on the ground of parity.

8. It is further submitted by the learned counsel that the since final form has already been submitted as evident from the order of rejection and as the Petitioner is the first offender, he may be released on bail.

9. Per contra, learned counsel for the State opposes the prayer for bail in view of the bar contained in Section 37 of the NDPS Act and the seizure being a common one, the defence of the Petitioner does not stand to reason and hence the bail application does not deserve consideration.

10. Taking into account the release of the co-accused and bleak chance of early trial, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

11. Before releasing the Petitioner on bail, learned Court in seisin is called upon to verify as to whether the Petitioner has surrendered on 27.04.2023, as submitted and also the criminal antecedent of the Petitioner. If it comes to the fore that the submission regarding surrender of the Petitioner is not correct and he has any criminal antecedent, this order shall stand recalled.

12. Additionally, it is directed that the 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.

13. The BLAPL thus stands disposed of.

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

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