

**(2024) 06 OHC CK 0078**  
**In the Orissa High Court**  
**Case No : Bail Application No. 5524 Of 2024**

Sunil Digal

APPELLANT

Vs

State Of Odisha

RESPONDENT

**Date of Decision :** 06-06-2024

**Acts Referred:**

Code of Criminal Procedure, 1973 — Section 439

Narcotics Drugs and Psychotropic Substances Act, 1985 — Section 20(b)(ii)B, 37

**Citation :** (2024) 06 OHC CK 0078

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

**Bench :** Single Bench

**Advocate :** S.Rout, A.R. Panda, P.K.Mohanty

**Final Decision :** Disposed Of

## Judgement

M.S.Sahoo, J

1. Under Section 439 of Cr.P.C., the BLAPL has been filed by the petitioner, now in jail custody in connection with Phulbani Sadar-Range Excise P.R. No.9 of 2024 corresponding to 2 (a) C.C. No.12 of 2024 pending in the court of learned Sessions Judge-cum-special Judge, Phulbani for alleged commission of offence under Section 20(b)(ii)B of the NDPS Act.

2. Learned counsel for the petitioner submits that the petitioner is in custody since 23.05.2024, in the meanwhile the final prosecution report has been submitted and considering the period of incarceration the petitioner's prayer for bail may be sympathetically considered.

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

3. Learned Additional Standing Counsel for the State referring to Section 37 of

the NDPS Act and the past allegations of criminal activity against the petitioner opposes the prayer for bail though there is no similar nature of allegation against the petitioner in the past.

However, it is not disputed at the Bar and also as referred to in the order of the learned court in seisin rejecting the earlier prayer for bail dated 24.05.2024 the quantity of contraband seized is 12kg which is below the commercial quantity.

4. Having heard the learned counsel for the petitioner, the learned counsel for the State, considering the materials on record, period of incarceration already undergone, 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 solvent local sureties for an amount to the satisfaction of the learned court in seisin of the matter, one of the sureties shall be a family member of the petitioner;

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 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 herself 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; and in case of his involvement in any other criminal activities or breach of any condition imposed for grant of bail, the investigating agency informant/victim shall file petition for cancellation of bail.

5. The BLAPL is disposed of accordingly.

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

It is clarified that any observations made in this order shall not be construed to be the opinion of this Court regarding the merits of the contentions that would be raised in the pending trial before the learned court in seisin by either of the parties to the present petition.

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