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(2023) 02 OHC CK 0200 Orissa High Court

Case No: Bail Application No. 10946 Of 2022

Pankhrasius Bara APPELLANT

Vs

State Of Odisha RESPONDENT

Date of Decision: Feb. 27, 2023

Acts Referred:

Code of Criminal Procedure, 1973 â€" Section 439#Narcotic Drugs and Psychotropic

Substances Act, 1985 â€" Section 20(b)(ii)(c), 37

Citation: (2023) 02 OHC CK 0200 Hon'ble Judges: V. Narasingh, J

Bench: Single Bench

Advocate: M.K. Chand, 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 T.R. Case No.71 of 2022 pending on the file of learned Sessions Judge-cum-Special Judge, Sambalpur, arising out

of P.R No.524 of 2022-23, for commission of offence under Section 20(b)(ii)(C) of the N.D.P.S. Act.

3. Being aggrieved by the rejection of his application for bail U/s. 439 Cr.P.C by the learned Sessions Judge-cum-Judge (Special Court), Sambalpur by

order dated 28.10.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted by the learned counsel that the Petitioner is in custody since 07.10.2022 on the allegation of possessing contraband (ganja) to the tune

of 20 Kg. 600 grams.

- 5. It is further submitted that since investigation has progressed substantially, further continuance of the Petitioner in custody is not warranted.
- 6. He further states that wrong weighment cannot be ruled out so as to attract the rigors of Section 37 of the N.D.P.S Act.
- 7. Learned counsel for the State opposes the prayer for bail during currency of investigation and also on the ground that since the Petitioner does not

reside within the territorial jurisdiction of the learned Court in seisin, it would be difficult to ensure his presence on each date of trial.

8. Taking into account the age of the Petitioner (38 years) and the quantity of contraband allegedly seized being 20 Kg. 600 grams (ganja) and

considering the submission at the Bar that the Petitioner is the first offender, this Court directs the Petitioner to be released on bail on such terms to be

fixed by the learned court in seisin.

9. Additionally, it is directed that the Petitioner shall appear before the Investigating Officer once every week on such date and time to be fixed by the

learned Court in seisin till submission of final form. Certification of such appearance shall be submitted to the Court in seisin.

10. To allay the legitimate apprehension of the learned Public Prosecutor regarding ensuring the presence of the Petitioner during trial since he does

not belong to the State of Odisha, additionally it is directed that one of the family members of the Petitioner shall execute the P.R bond in addition to

the sureties in terms of the order of the learned Court in seisin and his criminal antecedent from P.S. Aara, Dist-Jashpur, Chhattisgarh shall also be

called for.

- 11. If it comes to fore that the Petitioner has similar criminal antecedent, this order shall stand recalled.
- 12. The BLAPL thus stands disposed of.
- 13. Urgent certified copy of this order be granted as per rules.

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