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(2023) 10 OHC CK 0101 Orissa High Court

Case No: Bail Application No. 10033 Of 2023

Puranjana Gomango APPELLANT

Vs

State Of Odisha RESPONDENT

Date of Decision: Oct. 16, 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) 10 OHC CK 0101

Hon'ble Judges: G. Satapathy, J

Bench: Single Bench

Advocate: Dr. B.K. Mishra, S.R. Roul

Final Decision: Disposed Of

Judgement

- G. Satapathy, J
- 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
- 2. This is a bail application U/S.439 of Cr.P.C. by the Petitioner for grant of bail in connection with Adava P.S. Case No. 44 of 2022 corresponding to
- G.R. Case No. 34 of 2022 pending in the Court of learned Sessions Judge-cum-Special Judge, Gajapati at Paralakhemundi for commission of offences

punishable Under Sections 20(b)(ii)(C) of NDPS Act, on the allegation of transporting 289 Kgs and 600 Grams of Contraband Ganja.

3. Dr. B.K. Mishra, learned counsel for the Petitioner submits that although the trial has commenced, but it is yet to be established that the Contraband

Ganja was in fact possessed by the petitioner and so far as the recovery of Contraband Ganja from the under constructed house, it neither belonged to

the petitioner nor was the petitioner found in any way possessing the Contraband Ganja and therefore, the petitioner may kindly be granted bail.

- 4. On the other hand, Mr. S.R. Roul, learned ASC strongly opposes the bail application of the petitioner by resorting to Section 37 of the NDPS Act.
- 5. After having considered the rival submissions upon perusal of the record, it appears that the petitioner is facing trial on the allegation of possessing

289 Kgs. 600 Grams of Contraband Ganja which is coming under more than commercial quantity and in such case, before grant of bail, the petitioner

has to satisfy the twin conditions of Section 37 of the NDPS Act, but in the circumstance, he is unable to satisfy such condition. Further, the disputed

question of so called possession of the contraband articles by the petitioner can be appreciated in the trial, but not in this bail application.

6. In view of the aforesaid facts and taking into consideration the nature and gravity of accusations raised against the petitioner and trial having

already been commenced in this case with examination of three witnesses, this Court is not inclined to grant bail to the present petitioner.

Hence, the bail application of the petitioner stands rejected. Trial be expedited.

- 7. Accordingly, the BLAPL stands disposed of.
- 8. Issue urgent certified copy of the order as per Rules.

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