

(2024) 05 OHC CK 0089

Orissa High Court

Case No: Bail Application No. 2770 Of 2024

Rakesh Sindhi @ Lidi

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision: May 7, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 439
- Narcotics Drugs and Psychotropic Substances Act, 1985 - Section 21(b), 29, 37
- Arms Act, 1959 - Section 25(1B)

Hon'ble Judges: Savitri Ratho, J

Bench: Single Bench

Advocate: M. Sahoo, M. R. Mishra

Final Decision: Disposed Of

Judgement

Savitri Ratho, J

1. This application under Section 439 of Cr.P.C. has been filed in connection with Jharsuguda P.S. Case No. 473 of 2023 corresponding to CrI. T

(Special) Case No. 42 of 2023 pending in the Court of the learned Special Judge, Jharsuguda, where charge sheet has been submitted on 26.11.2023

against the petitioner and other accused persons under Sections 21(b), 29 of NDPS Act and Section 25(1-B) of the Arms Act.

2. This matter has been listed before me as BLAPL No. 12069 of 2023 filed by co-accused Roshan Kumura has been disposed of by me on

30.10.2023.

3. The prayer for bail of the petitioner has been rejected vide order dated 29.02.2024 passed by the learned Special Judge, Jharsuguda.

4. The prosecution allegation in brief is that on 27.09.2023 at about 6.30 p.m. when the informant - S.I. of Police, Jharsuguda Police Station on instruction of the IIC, Jharsuguda Police Station had gone to the garden locality known as Jain Garden behind Man Mohan field, Jharsuguda and found five to six persons dealing with contraband articles like brown sugar. So, she immediately recorded the information in Station diary Entry No.18 dated 27.09.2023 and forwarded this information to the SDPO/S.P., Jharsuguda along with intimation letters dated 27.09.2023. As per the direction of the IIC, Jharsuguda PS, IO along with her staff proceeded to the Jain Garden and at about 2.30 PM, they reached at the spot and found that 6 persons had congregated inside the garden and had kept a red colour Yamaha FZS motorcycle without any registration number and small quantity of powder suspected to be brown sugar and small size of colour papers had been kept in the ground and they were dividing the powder in order to make small packets. On being asked 6 persons disclosed their names and also confessed that they were smuggling brown sugar in the locality, and they were sitting there to divide the brown sugar into small packets of 0.5mg each for convenient sale customers. Co-accused Roshan Kumura and Soubhagya Seth had come to Jharsuguda in order to procure heroin of small quantities of 1gm packets for sell in the area. After following the mandatory procedure of the NDPS Act, the accused persons were searched, and brown sugar recovered from the possession of the petitioner and other accused persons.

5. Ms. M. Sahoo, learned counsel for the petitioner submits that the petitioner is in custody since 27.09.2023 and investigation has been completed so far as he is concerned. She also submits that the petitioner is alleged to have 7 criminal antecedents, but none are under the NDPS Act. A comprehensive affidavit has been filed by Puja Sindhi, wife of the petitioner, stating to that effect and further the petitioner has been released on bail in all the cases. She further submits in view of the quantity of the brown sugar seized and as it has not been seized from the exclusive conscious possession of the petitioner, section 37 of the NDPS Act will not be a bar for considering his prayer for bail. She submits that co-accused Irshad Khan

in BLAPL No. 279 of 2024 and co-accused Airfan @ Irfan Alli @Ali @ Ilu in BLAPL No. 298 of 2024 have been granted bail.

6. Mr. M. R. Mishra, learned Additional Standing Counsel opposes the prayer for bail stating that in view of the large number of criminal antecedents,

the petitioner is likely to indulge in further criminal activity if he is released on bail.

7. Considering the nature of allegations against the petitioner, the quantity of brown sugar seized, the submission that none of the antecedents of the

petitioner are under the NDPS Act and as investigation in the case has been completed, I am inclined to allow the prayer for bail, subject to stringent

conditions.

8. The petitioner- Rakesh Sindhi @ Lidi shall be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin

over the matter, after verification that he has only seven criminal antecedents, in which he has been granted bail, including the following conditions:

(i) He will not indulge in any criminal activity while on bail.

(ii) He will not tamper or try to influence prosecution witnesses while on bail.

(iii) He will report before the IIC, Jharsuguda Police Station, once a week preferably on a Sunday between 2.00 p.m. till 3.00 p.m. till conclusion of trial.

(iv) He will appear on each date in the trial Court once trial starts.

9. Violation of any condition will entail in cancellation of bail/recall of this order.

10. The BLAPL is accordingly disposed of.

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

12. Copy of this order be supplied to Mr. M. R. Mishra, learned Additional Standing Counsel for onward transmission to the IIC, Jharsuguda Police

Station.

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