

**(2024) 07 OHC CK 0016**

**Orissa High Court**

**Case No:** Bail Application No. 6432 Of 2024

Nabaghana Saraka

APPELLANT

Vs

State Of Odisha

RESPONDENT

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**Date of Decision:** July 2, 2024

**Acts Referred:**

- Code of Criminal Procedure, 1973 - Section 439
- Narcotics Drugs and Psychotropic Substances Act, 1985 - Section 20(b)(ii)(C), 37

**Hon'ble Judges:** A.K. Mohapatra, J

**Bench:** Single Bench

**Advocate:** Soubhagya Kumar Dash, S.Jena

**Final Decision:** Disposed Of

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### **Judgement**

A.K. Mohapatra, J

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel appearing for the Petitioners and learned Additional Standing Counsel appearing for the State-Opposite Party. Perused the materials placed before this Court.
3. The present bail application under Section 439 of Cr.P.C. has been filed by the Petitioners for regular bail in connection with T.R.Case No. 24 of 2024, arising out of Rayagada P.S.Case No. 169 of 2024, pending in the Court of learned Special Judge, Rayagada for alleged commission of offence punishable under Sections 20(b)(ii)(C) of the N.D.P.S. Act.
4. Learned counsel for the Petitioners submits that earlier this matter was not before any other Bench of this Court. It is submitted by the learned counsel for the Petitioners

that the Petitioners are in custody since 21.05.2024. Further contended that in the meantime the investigation has progressed substantially. Further, allegations made in the F.I.R., the learned counsel for the Petitioners submitted that four persons were arrested in connection with present case for a total quantity of 36 kgs of ganja while they were waiting for the train in the Railway Station. In the aforesaid factual background, he further submitted that the ganja has been recovered from a public place and the same cannot be attributed to the present Petitioners and it cannot be construed that the same has been recovered from the exclusive and conscious of the present Petitioners. Therefore, he submitted that the bar under Section 37 of the N.D.P.S. Act is not attracted. He further submitted that the Petitioners do not have any similar criminal antecedent. In such view of the matter, learned counsel for the Petitioners submitted that the Petitioners be released on bail on any terms and condition which the Petitioners undertake to abide by while on bail.

5. Learned Additional Standing Counsel appearing for the State-Opposite Party, on the other hand, opposed the release of the Petitioners on bail on the ground that in the event the Petitioners are released on bail, there is a possibility that they might be involved in similar criminal offences. Learned Additional Standing Counsel submitted that nature of allegation and the contraband used in the present case is itself a threat to the society. Therefore, he submitted that the prayer for bail of the Petitioners be rejected at this juncture.

6. Having heard the learned counsels appearing for the respective parties and on a careful examination of the surrounding facts and circumstances of the present case, this Court is inclined to release the Petitioners on bail subject to imposition of stringent conditions.

7. Hence, it is directed that the Petitioners be released on bail in the aforesaid case on furnishing bail bond of Rs.25,000/-(Rupees Twenty Five thousand) each with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter.

8. It is open for the Court in seisin over the matter to impose any other conditions as may be deemed just and proper. Violation of any other conditions shall entail cancellation of the bail application.

9. It is further directed that the bail granted to the Petitioners be subject to the condition that the court below shall verify the similar criminal antecedent of the Petitioners. In the event the Petitioners are having any similar criminal antecedent under the offences of NDPS Act, this bail order shall automatically stand revoked.

10. The BLAPL is, accordingly, disposed of.

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