

(2024) 07 OHC CK 0039

Orissa High Court

Case No: Bail Application No.5633 Of 2024

Ankaj @ Lale

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision: July 1, 2024

Acts Referred:

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

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

Bench: Single Bench

Advocate: Nihar Ranjan Sahoo, M.K.Mohanty

Final Decision: Disposed Of

Judgement

A.K. Mohapatra, J

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel for the State.
3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with Khurda Road GRPS P.S. Case No.47 of 2024, corresponding to T.R.Case No.237/2024, pending in the Court of the learned District and Sessions Judge, Khurda, Bhubaneswar for alleged commission of offence under Sections 20(b)(ii)(B) of NDPS Act.
4. Learned counsel for the Petitioner submits that earlier this matter was not before any other Bench of this Court. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 30.04.2024. Further, referring to the allegations

made in the F.I.R., learned counsel for the Petitioner submitted that keeping in view the quantity of ganja seized, i.e., 5 kgs. 100 gms., was recovered from exclusive and conscious possession of the Petitioner. Further contended that the quantity of the contraband ganja was recovered from the petitioner, which was less than the commercial quantity, a bar under Section 37 of the N.D.P.S. Act is not attracted. He further submitted that the Petitioner does not have any similar criminal antecedents. Further contends that the petitioner does not belongs to State of Odisha, therefore, the Petitioner is ready and willing shall abide by any terms and conditions as this Court deems fit and proper in the facts and circumstances of the case.

5. Learned Additional Standing Counsel on the other hand opposed the bail application of the Petitioner on the ground that such cases are increasing day-by-day and no leniency should be shown to the petitioner. He further submitted that the Petitioner belongs to State of West Bengal, therefore, release of the Petitioner be difficult to ensure the appearance of the Petitioner before the Trial Court during trial. Further contends that the Investigation is still on. In such view of the matter, he submitted that the bail application of the Petitioner 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, further keeping the view the period of detention of the Petitioner in jail custody and the fact that the Petitioner does not have any similar criminal antecedent, this Court is inclined to release the Petitioner on bail subject to imposition of stringent conditions.

7. Hence, it is directed that the Petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.30,000/- (Rupees Thirty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions:

I) The Petitioner shall also file an affidavit before the Trial Court with regard to indicating there his residential details other details like Aadhar No., Phone No. before the jurisdictional police station & further release of the Petitioner shall be subject to verification of such details as would be furnished by any relative of the Petitioner in the shape of an affidavit.

II) he shall not be involved in any offence of similar nature while on bail;

III) he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;

IV) he shall not make any default in attending the court during trial on each date without fail;

V) he shall appear before the concerned Police Station once in a fortnight preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of the trial.

Violation of any of the terms and conditions shall entail cancellation of bail.

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

9. BLAPL is accordingly disposed of.

10. Issue urgent certified copy as per Rules.

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