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**(2024) 07 OHC CK 0041**

**Orissa High Court**

**Case No:** Bail Application No. 6323 Of 2024

Dusmanta Jena

APPELLANT

Vs

State Of Odisha

RESPONDENT

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**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:** Bikram Keshari Raj, M.K.Mohanty

**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. Mr. Nihar Ranjan Ojha, learned counsel without consent of the previous counsel try to enter appearance on behalf of the Petitioner by filing a vakalatnama, accordingly, the same is hereby rejected. Mr.Bikram Keshari Raj, learned counsel for the Petitioner is present in Court.
3. Heard learned counsel appearing for the Petitioner and learned Additional Standing Counsel appearing for the State-Opposite Party. Perused the materials placed before this Court.
4. The present bail application under Section 439 of Cr.P.C. has been filed by the Petitioner for regular bail in connection with T.R. No. 330/2024, arising out of Excise Station, Bhubanswar-II P.R. No. 78/2024 -25, pending in the Court of learned District

and Sessions Judge, Khurda, Bhubaneswar for alleged commission of offence punishable under Sections 20(b) (ii)(B) of the N.D.P.S. Act.

5. 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 13.06.2024. Further contended that in the meantime the investigation has progressed substantially. Further, allegations made in the F.I.R., the learned counsel for the Petitioner submitted that a total quantity of 5 kgs 100 gms. of ganja, was recovered from the exclusive and conscious possession of the Petitioner, which is 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 antecedent. In such view of the matter, learned counsel for the Petitioner submitted that the Petitioner be released on bail on any terms and condition which the Petitioner undertakes to abide by while on bail.

6. Learned Additional Standing Counsel appearing for the State-Opposite Party, on the other hand, opposed the release of the Petitioner on bail on the ground that in the event the Petitioner is released on bail, there is a possibility that he 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 Petitioner be rejected at this juncture.

7. 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 and further keeping the view the fact that the Petitioner does not have any similar criminal antecedents, this Court is inclined to release the Petitioner on bail subject to imposition of stringent conditions.

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

9. 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.

10. It is further directed that the bail granted to the Petitioner be subject to the condition that the court below shall verify the 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.

11. The BLAPL is, accordingly, disposed of.

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