

(2024) 07 OHC CK 0044

Orissa High Court

Case No: Bail Application No. 6346 Of 2024

Hemanta Khora

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)(c), 37

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

Bench: Single Bench

Advocate: Tukuna Kumar Mishra, 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 appearing for the Petitioner 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 Petitioner for regular bail in connection with Rayagada GRP Case No.23 of 2024, arising out of T.R. case No-16/2024, 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 Petitioner submits that earlier this matter was not before any of the bench of this Court. It is submitted by the learned counsel for the Petitioner

that the Petitioner is in custody since 28.04.2024. He further contended that the investigation has progressed substantially in the meantime. Further referring to the allegation made in the F.I.R., learned counsel for the petitioner submitted that 29 Kg ganja was recovered from three persons including the present petitioner. So far the present petitioner is concerned, learned counsel for the petitioner submitted that total 9Kg 400 gram ganja was recovered from the exclusive and conscious of the present 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. He further contended that the petitioner belongs to the locality, therefore there is no chance on absconding. 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.

5. 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 considering the nature of allegation and the contraband used in the present case, the release of the petitioner would be a threat to the society. Therefore, he submitted that the prayer for bail 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 and 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.25,000/- (Rupees Twenty Five thousand) with two local solvent sureties 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.

9. It is further directed that the bail granted to the Petitioner is subject to the condition that the court below shall verify whether the Petitioner is having any criminal antecedent of similar nature. In the event it is found that the Petitioner is having any similar criminal antecedent, this bail order shall automatically stand revoked.

10. The BLAPL is, accordingly, disposed of.

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