(2024) 07 OHC CK 0047

Orissa High Court

Case No: Bail Application No. 6327 Of 2024

Rohen Kumar Mali		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: Jugala Kishore Panda, 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 G.R. Case No.49 of

2024 N, arising out of Gosaninuagaon P.S. Case No. 141/2024, pending in the Court of learned Sessions Judge- Cum- Special Judge, Ganjam for

alleged commission of offence punishable under Sections 20(b)(ii)(B) of the N.D.P.S. 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 07.06.2024. 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 24 kgs 30 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.

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 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.

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 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.

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 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 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.

10. The BLAPL is, accordingly, disposed of.

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