

02. 30.05.2018 Heard learned counsel for the petitioner and the learned counsel for the State.

This is an application under Section 439 Cr.P.C. in connection with 2(a) C.C. Case No. 16 of 2018 arising out of Excise PR EI & EB Unit II Case No.15 of 2018 under section 21(b) of N.D.P.S. Act pending in the Court of learned Sessions Judge, Cuttack.

The petitioner moved an application for bail before the Court of learned Sessions Judge, Cuttack which was rejected on 17.05.2018.

Learned counsel for the petitioner submits that the petitioner is in custody since 24.04.2018 and it is the prosecution report that 33 grams of brown sugar was seized from the possession of the petitioner and since the quantity of brown sugar alleged to have been seized from the possession of the petitioner is lesser than commercial quantity, the bar under section 37 of the NDPS Act is not applicable and therefore, taking into account the period of detention of the petitioner in judicial custody, the bail application of the petitioner may be favourably considered.

Learned counsel for the State has produced the case diary and does not dispute regarding the quantity of brown sugar seized.

Considering the submissions of learned counsels for the respective parties, the nature of accusation against the petitioner, the quantity of brown sugar seized from the possession of the petitioner, absence of bar under section 37 of the N.D.P.S. Act for such quantity and taking into

account the period of detention of the petitioner in jail custody, I am inclined to release the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.20,000/- (rupees twenty thousand only) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper.

Accordingly, the BLAPL is disposed of.

Urgent certified copy of this order be granted on proper application.

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S. K. Sahoo, J.
(Vacation Judge)

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