



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11430 of 2024

Shaikh Azhan Ahmed @ Petitioner
Azhan Ahmed

Mr. S.K. Tripathy, Advocate

-versus-

State of Orissa Opposite Party

Mr. C.R. Swain, AGA

CORAM: JUSTICE V. NARASINGH

ORDER

30.11.2024

Order No.

- 01.** 1. Heard learned counsel for the Petitioner and learned counsel for the State.
2. The Petitioner is an accused in connection with Special G.R. Case No.97 of 2022 pending on the file of learned Sessions Judge-cum-Special Judge, Malkangiri arising out of Kalimela P.S. Case No.155 of 2022 for commission of offence alleged under Sections 20(b)(ii)(C)/25 of the N.D.P.S Act.
3. Learned counsel, on instruction, submits that except the present BLAPL, no other bail application of the Petitioner relating to the aforementioned P.S. case is pending in any other Court.
4. Being aggrieved by the rejection of his application for bail U/s.483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) by the learned Special



Judge, Malkangiri by order dated 07.11.2024 in the aforementioned case, the present BLAPL has been filed.

5. It is submitted by the learned counsel that the Petitioner is in custody since 10.06.2022 on the allegation that he along with co-accused are involved in transportation of contraband (ganja) to the tune of 79 Kg. 900 grams.

6. This is the third journey of the Petitioner to this Court. The Petitioner earlier approached this Court in BLAPL Nos.6870 of 2022 and this Court by order dated 04.08.2022 was not inclined to entertain the bail application. Thereafter the Petitioner approached this Court in BLAPL No.904 of 2023. And, by order dated 13.09.2023 taking into account the report of the learned trial court that the case is likely to be disposed of by end of 4th quarter, 2023, this Court did not entertain the bail application.

7. On perusal of the impugned order, it is seen that one more witness has been examined and the trial is continuing.

8. It is submitted by the learned counsel that the Petitioner is the first offender and on the ground of procrastination of trial he seeks release.

9. Learned counsel for the State opposes the prayer in view of the bar contained in Section



37(1)(b)(ii) of NDPS Act and relying on the evidence adduced as reflected in the order of rejection.

10. It is the further submission of the learned counsel for the State that the Petitioner is the flight risk. In this context he relies on the order of the Apex Court in the case of State by the **Inspector of Police vs. B. Ramu** in SLP(Crl.) No(s).8137 of 2022 dated 12.02.2024 and **M.P. vrs. Kajad, (2001) 7 SCC 673.**

11. Taking into account that the trial is still under way even though the Petitioner is in custody since 10.06.2022 and is stated to be the first offender and keeping in view his right to speedy trial and in the light of the latest judgment in the case of **Ravi Prakash vrs. The State of Odisha, 2023 Live Law (SC) 533** and **Mohd. Muslim @ Hussain Vs. State (NCT of Delhi), AIR 2023 SC 1648**, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

12. To allay the legitimate apprehension of the learned Public Prosecutor regarding ensuring the presence of the Petitioner during trial since he does not belong to the State of Odisha, additionally it is directed that one of the family members of the Petitioner shall execute the P.R bond in addition to the sureties in terms of the order of the learned Court



in seisin and his criminal antecedent from his parents police station shall also be called for.

13. If it comes to fore that the Petitioner has any criminal antecedent, this order shall not be given effect to.

14. Additionally, it is directed that the Petitioner shall appear before the jurisdictional police station once every month on such date and time to be fixed by the learned Court in seisin till conclusion of trial. Certification of such appearance shall be submitted to the Court in seisin.

15. Accordingly, the BLAPL stands disposed of.

16. Urgent certified copy of this order be granted as per the rules.

(V. NARASINGH)
Judge

PKS

Signature Not Verified

Digitally Signed
Signed by: PRADEEP KUMAR SWAIN
Designation: Assistant Registrar-cum-Senior Secretary
Reason: Authentication
Location: Orissa High Court, Cuttack
Date: 02-Dec-2024 15:19:44

