

2(a)C.C.case No.61/2022(N)

06) 05.08.2022

The record is put up today for consideration of the bail petition under Section 37 of the NDPS Act, 1985 read with Section 439 of the Cr.P.C. filed on behalf of the accused Rama Chandra Behera on dated 04/08/2022.

I have already heard from the learned counsel for the accused and the learned Public Prosecutor for the State one after another separately.

The accused is in jail custody since 25/06/2022 having been implicated with the offence under Section 20(b)(ii)(B) of the NDPS Act, 1985 on the allegation of illegal & unauthorised possession of 15 Kilograms of contraband Ganja, which is more than small quantity but lesser than commercial quantity.

The punishment provided for the said offence under Section 20(b)(ii)(B) of the NDPS Act, 1985 is rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees.

The law relating to bail in this nature of allegations has already been clarified by the Hon'ble Courts in the ratio of the following decisions;

(2020) 79 OCR 874 : Suratha Pani Vs. State of Odisha

(2015) 62 OCR 459 : Anil Kumar Dash Vs. State of Orissa

that, NDPS Act, 1985, Section 37 read with Section 439

- In view of Section 37 of the NDPS Act, 1985, the

limitations on granting of bail specified in clause (b) of Sub-section (1) of Section 37 of the NDPS Act, 1985 will not be applicable to the quantity of 20 kilograms of Ganja as the said quantity is lesser than “commercial quantity” but greater than “small quantity” for which the limitations for granting bail shall apply to the offence under Section 20(b)(ii)(C) of the NDPS Act but not to the offence punishable under Section 20(b)(ii)(B) of the NDPS Act.

Here in this case at hand, when the investigation of the case has already been completed upon submission of Final Prosecution Report and accused, is in jail custody since 25/06/2022 and when the presence of the accused before the Investigating Officer is no more required due to substantial progress of investigation and when he (accused) has been implicated with an offence under Section 20(b)(ii)(B) of the NDPS Act on the allegation of illegal possession of contraband Ganja, which is lesser than “commercial quantity” and when there is nothing on record to show the past criminal antecedents of the accused, then at this juncture by applying to the principles of law annunciated by the Hon’ble Courts in the ratio of the aforesaid decisions, I find no justification to disallow the prayer for bail of the accused.

Therefore, the bail application filed by the accused is allowed.

He (accused – Rama Chandra Behera) is allowed to go on bail on furnishing bail bonds of **₹50,000/- (Rupees Fifty Thousand) with two solvent sureties**, each for the like amount with the conditions that;

- (i) he (accused) shall not involve with any crime in future;
- (ii) he (accused) shall not terrorise, coerce, influence or threat to any witnesses of the prosecution in any manner either directly or indirectly at any stage of the proceeding of the case; and
- (iii) he (accused) shall appear before the Court on each date of adjournment of the case for trial without fail, however, subject to exception under Section 317 of the CrPC on valid and cogent grounds.

Accordingly, the bail application filed by the accused is disposed of finally.

Put up when bail bonds are filed or on the date fixed, whichever is earlier.

(Dictated)

Special Judge.

