

BLAPL No.258 of 2022

12.10.2022

The accused petitioner has filed this petition U/s.439 Cr.P.C with a prayer to admit him to bail as his bail application has been rejected by learned J.M.F.C, Soro on merit. Copy of the bail application has been served on the learned Addl. P. P. In addition to the certificate given in the bail application, the learned counsel for the petitioner filed a memo today intimating this court that no similar bail application is pending in any other court except the present one.

2. The petitioner being detained in custody in connection with 2(a) CC Case No.336/2022 for alleged commission of offence punishable U/s. 52(a) of Odisha Excise Act-2008, pending in the file of J.M.F.C, Soro has approached for his enlargement on bail.

3. Case of the prosecution, in nutshell, is as follows:-

It reveals from the P.R. that on 10.10.2022 at about 10 A.M. while the informant, OIC of Khaira Excise Station, Balasore namely Smt. Kalpana Jena along with her staff were performing patrolling duty on the village road of Kantapada under Khaira P.S. found that the accused petitioner was in conscious and exclusive possession of one white colour jerry sack having a red colour rubber bladder containing 30(thirty) liters of I.D. liquor. On demand he failed to produce any license and authority in support of such possession of I.D. liquor for which the OIC of Khaira Excise Station, Balasore seized the said liquor from the possession of the accused/petitioner in presence of witnesses and accordingly the Excise officials arrested the petitioner for commission of offence U/s 52(a) of Odisha Excise Act, 2008 and forwarded him to the court on 10.10.2022 and on the same day his bail application was rejected by the learned J.M.F.C, Soro.

4. Heard. It is submitted by the learned counsel for the petitioner that the OIC of Khaira Excise Station, Balasore has submitted final P.R. along with other relevant papers in this case. He submitted that the accused petitioner is a very poor, innocent and also the only earning member of his family, in his absence his family members may be suffer irreparable loss. He further submitted that the excise officials have falsely implicated him in this case and nothing has been seized from his possession nor any seized liquor has been produced by the OIC of Khaira Excise Station, Balasore before the court. Further the petitioner is inside the custody since 10.10.2022 and during his custody period, he must have

understood the rigorous of law. He has further submitted that the petitioner is the permanent resident under the jurisdiction of this court. Accordingly, the learned counsel prayed for release of the accused/petitioner on bail on any term and condition as deem fit by this court. On the other hand, the learned A.P.P. objected the bail petition on the ground that illegal possession and selling of liquor is rampant in the locality. So, he submitted that the bail petition of the accused petitioner should be rejected.

5. Perused the final P.R, seizure list and other document available in the LCR. This is a case U/s 52(a) of Odisha Excise Act, 2008 which is triable by the court of J.M.F.C. It further reveals that the I.O. has seized 30 (Thirty) liters of I.D. liquor. Besides that the petitioner is in custody from 10.10.2022 and during the detention period he must have understood the rigorous of law and his further detention inside the custody will not fulfill any purpose of the prosecution as the final P.R. has already been submitted by the prosecution and it does not reveal any criminal antecedent against the present accused petitioner except this case. The petitioner is the permanent resident under the jurisdiction of this court. Under the above circumstance, taking all the above points into my consideration, I am inclined to release the accused/petitioner on bail. Accordingly the bail petition of the petitioner is allowed.

ORDER

Hence, the petitioner namely Sachindra Giri be released on bail on furnishing the bail bond of Rs.20,000/-(Rupees twenty thousand) with one solvent surety for the like amount to the satisfaction of learned J.M.F.C, Soro with the statutory condition as provided U/s.437(3) of Cr.P.C. along with further condition that she shall not involve in commission of similar offence.

This BLAPL No.258/2022 is disposed of accordingly.

Send the extract of order along with LCR received by this Court to the learned J.M.F.C, Soro for information and necessary action.

(Dictated)

Asst. Sessions Judge, Soro.

**Extract copy of order dt. 12.10.2022 passed by
Ms. Sangita Mishra, LL.B,
Asst. Sessions Judge, Soro in BLAPL No.258/2022
arising out of 2(a)CC No. 336/2022
U/s. 52(a) of Odisha Excise Act, 2008.

Sachindra Giri, aged 65 years,
S/o. Late Sanatan Giri,
At/P.O.- Kantapada, P.S.- Khaira, Dist.-Balasore.

.....Petitioner.

(Versus)

State of Odisha

.....Opp.Party

ORDER

Dtd.12.10.2022:

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Hence, the petitioner namely Sachindra Giri be released on bail on furnishing the bail bond of Rs.20,000/-(Rupees twenty thousand) with one solvent surety for the like amount to the satisfaction of learned J.M.F.C, Soro with the statutory condition as provided U/s.437(3) of Cr.P.C. along with further condition that she shall not involve in commission of similar offence.

This BLAPL No.258/2022 is disposed of accordingly.

Dictated

Sd/-

Asst. Sessions Judge, Soro.

Memo No._____/Dtd. 12.10.2022.

Copy of order along with L.C.R. forwarded to the learned J.M.F.C, Soro for information and necessary action.

Asst. Sessions Judge, Soro.