



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.704 of 2023

Mangala Charan Sahu

.... **Appellant**

Mr. B.R. Das, Advocate

-versus-

State of Odisha

.... **Respondent**

Mr. R. Pradhan, A.P.P.

**CORAM:
JUSTICE B. P. ROUTRAY**

ORDER
23.07.2025

Order No.

I.A. No.1499 of 2023

10.

1. Realization of fine amount shall remain stayed till disposal of the appeal.

2. The I.A. is disposed of.

I.A. No.1498 of 2023

3. Heard Mr. B.R. Das, learned counsel for Appellant and Mr. Pradhan, learned Additional Public Prosecutor for State-Respondent.

4. The Appellant, namely, Mangala Charan Sahu, who is convicted by learned 3rd Addl. Sessions Judge-cum-Special Judge (NDPS), Berhampur, Ganjam in the judgment dated 23.05.2023 in G.R. Case No.9/2020 (N) for commission of offence under Section 20(b)(ii)(C) of the NDPS Act and sentenced to undergo R.I. for 10 years along with fine, has prayed to release him on bail pending appeal.

5. It is submitted that the Appellant is inside custody since 4.2.2020 till date except during his release on interim bail for few

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months. It is also submitted that the other convict, namely, Sibaram Sahu, has been already released on bail by this Court vide order dated 23.12.2024 (by Coordinate Bench) in CRLA No.687 of 2023.

6. Hon'ble Supreme Court in the case of **State (NCT of Delhi) Narcotics Control Bureau v. Lokesh Chadha, (2021) 5 SCC 724** have held as follows:-

“where the trial has ended up in an order of conviction, the High Court, when a suspension of sentence is sought U/S.389(1) of Cr.P.C., must be duly cognizant of the fact that a finding of guilt has been arrived at by the learned trial Judge at the conclusion of the trial and the High Court may do so for sufficient reasons which must have a bearing on the public policy underlying the incorporation of Section 37 of NDPS Act.”

7. In the case of **Narcotic Control Bureau v. Lakhwinder Singh, 2025 SCC OnLine SC 366**, where the convict has undergone a period of 4 and half years out of 10 years for the offence under the NDPS Act, the apex court has confirmed his release on bail pending appeal. The relevant observations are as follows:-

“7. At this stage, the learned ASG appearing for the petitioner submitted that the power of the Court was constrained by Section 37 of the NDPS Act, which is applicable even at the stage of an appeal. He relies upon a decision of this Court in the case of **Dadu v State of Maharashtra, (2000) 8 SCC 437**. There is no dispute about the fact that the Appellate Court is bound by constraints of Section 37 of the NDPS Act while considering the prayer for the grant of bail during the pendency of an appeal. However, if, in the facts of the case, an accused has undergone a substantial part of the substantive sentence and, considering the pendency of criminal appeals, his appeal is not likely to be heard before the accused



undergoes the entire sentence, the Appellate Court can exercise the power of releasing the accused on bail pending the appeal. If the relief of bail is denied in such a factual situation only on the grounds of Section 37 of the NDPS Act, it will amount to the violation of the right of the accused under Article 21 of the Constitution of India.

8. In this case, the appeal preferred by the respondent is not likely to be heard before he undergoes the entire sentence. He has already undergone a substantial part of his 10-year sentence. Therefore, there is no reason to interfere with the impugned order in the facts of the case. The Appeal is, accordingly, dismissed. However, if the respondent misuses the liberty granted to him under the impugned order, the appellant can always apply for cancellation of bail.”

8. Of course there are statutory restrictions as per Section 37(1) of the NDPS Act for releasing an accused on bail and it is no more *res integra* that such restrictions would also apply in respect of prayer for bail pending appeal. The case in hand is an appeal of the year 2023 and there are much older appeals pending before this Court for hearing.

9. Taking into consideration the substantive period of sentence undergone by the Appellant as on date, release of other convict on bail and the probability of hearing of the appeal in due turn, this Court is inclined to release the Appellant on bail.

10. Upon hearing both the parties and taking note of the period of detention of the Appellant inside custody and release of co-convict on bail, it is directed to release the Appellant, namely, Mangala Charan Sahu on bail pending appeal on such terms and conditions to be fixed by the learned 3rd Addl. Sessions Judge-cum-Special Judge (NDPS), Berhampur, Ganjam in the aforesaid case including the condition that the Appellant shall furnish bail



bond of Rs.50,000/- (fifty thousand) with two solvent sureties (with proper identity proof).

11. The I.A. is disposed of.

CRLA No.704 of 2023

12. List this appeal in the 1st week of December 2025 for hearing.

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

(B.P. Routray)
Judge

B.K. Barik

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