

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**CRLMC No.04 of 2022**

|                                         |      |                                                   |
|-----------------------------------------|------|---------------------------------------------------|
| <b><i>Jayadev Naik @ Jaya Nayak</i></b> | .... | <b><i>Petitioner</i></b><br>Mr.J.K.Panda,Advocate |
| <i>-versus-</i>                         |      |                                                   |
| <b><i>State of Odisha</i></b>           | .... | <b><i>Opposite Party</i></b><br>Mr. K.Gaya,ASC    |

**CORAM:**  
**MR. JUSTICE S.K. PANIGRAHI**

**ORDER**  
**03.02.2022**

**Order No.**

- 01.
1. This matter is taken up by virtual mode.
  2. Heard learned counsel for the parties.
  3. The petitioner has filed this application with a prayer to quash the charge sheet No.213 of 2021 in C.T. Case No.771 of 2020/Special (NDPS) Case No.59 of 2020 arising out of Boudh P.S.Case No.302 of 2020 pending in the court of learned Sessions Judge-cum-Special Judge, Boudh.
  4. The prosecution case in brief is that the Inspector in-charge, Boudh P.S. and his staff, detected Ac.134.70 decimals of land cultivated with around 3,36,750 Cannabis plants. On seeing the raiding team, the petitioner and another co-accused fled from the spot. However, the Police drew up a plain paper FIR at the spot, and lodged a written report under Section 20(a)(i) of the NDPS Act after returning to the Station.
  5. Learned counsel for the petitioner submits that his entanglement in the cannabis cultivation is false and

fabricated. Nothing has been seized from the exclusive and conscious possession of the petitioner. Further, there are no evidences to indicate a prima facie case against him. The petitioner had no nexus with the seized contraband ganja. It is further submitted that one co-accused who is similarly situated with the petitioner has been released on bail by the learned court below. Moreover, since the allegations made in the F.I.R. and the material collected during the investigation do not allege or disclose the commission of the offence punishable under Section 20(a)(i) of NDPS Act, the CRLMC petition should be allowed.

6. On perusal of the record, it is found that the petitioner is involved in commission of the offence under Section 20(a)(i) of the N.D.P.S. act and he was arrested and produced before the court below on the strength of N.B.W(A) issued against him in connection Boudh P.S. Case No.302 of 2020. Furthermore, he does not stand on similar footing with the co-accused.

7. In view of above facts and circumstances, the petition filed by the petitioner merits no consideration, stands dismissed.

8. However, all the contentions as averred in the petition can be raised in the trial court at the time of framing of charges and the trial court shall consider discharging the present petitioner from the above offences, if there is no commission of offence as alleged. The trial court shall also proceed with the case purely on the facts of the case in accordance with law.

9. With the aforesaid order, the CRLMC is disposed of

10. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Office Order dated 7<sup>th</sup> January, 2022.

LB

