

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.106 OF 2022

Omm Sharma

....

Petitioner

Mr. Niranjan Lenka, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Soubhagya Ketan Nayak, AGA

CORAM:

MR. JUSTICE D.DASH

ORDER

01.02.2022

Order No.

- 02.
1. This matter is taken up by video conferencing mode.
 2. The Petitioner being in custody in connection with Machhakund P.S. Case No.83 of 2021 corresponding to T.R. Case No.78 of 2021 on the file of learned Addl. Sessions Judge-cum- Special Judge, Korapur, running for commission of offence under section 20(b)(II)(C) of the NDPS Act, has filed this application under section 439 of the Cr.P.C. for his release on bail in the above mentioned case.
 3. Learned Counsel for the Petitioner submits that this Petitioner being the poor driver of the Toyota vehicle has been implicated in the case when bags containing 89 kgs. of ganja has been recovered by the police on interception of the vehicle from the middle seat and dickey of the said vehicle. He further submits that about 127 kgs. of ganja being recovered from another vehicle reaching at the spot simultaneously, this

Petitioner is attributed to be involved in transporting of 216 kgs. of ganja when he had neither the knowledge about the ganja kept in the vehicle which he was driving nor had the knowledge with regard to ganja being carried in the other SWIFT Desire vehicle. He further submits that this Petitioner being engaged by his owner was carrying out his direction, when another was accompanying him from his place in the State of Madhya Pradesh. He, therefore, submits that in the facts and circumstances, the bar contained under section-37 of the NDPS Act does not stand on the way and further detention of the Petitioner in custody would serve no useful purpose; he urges for grant of bail to the Petitioner.

4. Learned Counsel for the State opposes the move. According to him, the investigation is in progress and the circumstances projected by the prosecution to the effect that both the vehicles were running side by side being occupied by the persons hailing from the same State detained almost at a time clearly suggest that they having the knowledge with regard to quantity of ganja found in both the vehicles. He further submits that in course of further investigation, the connection of this Petitioner as also other accused person as also the owners of the vehicles including the suppliers would come to surface.

4. Considering the submissions made and on going through the materials on record as also the surrounding circumstances; while being not inclined to grant of bail to the Petitioner at this stage; this application stands disposed of

granting liberty to the Petitioner to renew his prayer for grant of bail before the Trial Court after submission of charge-sheet.

5. The BLAPL is accordingly disposed of.

6. As the restrictions due to resurgence of COVID-19 situation 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 concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021.

Narayan

