

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.134 of 2022

***Kapindra Muguli @ Kapiha @
Kapila***

....

Petitioner

Mr. S.S. Ray-2, Advocate

-versus-

State of Odisha

....

Opposite Party
Ms. S.Mishra, ASC.

**CORAM:
MR. JUSTICE D.DASH**

**ORDER
01.02.2022**

Order No.

- 01.
1. This matter is taken up by video conferencing mode.
 2. The Petitioner being in custody in connection with Chandrapur P.S. No.33 of 2021 corresponding to T.R. Case No. 89 of 2021 on the file of the learned Addl. Sessions Judge-cum-Special Judge, Gunupur running for commission of offence under section 20(b)(ii)(C)/29 of the NDPS Act, has filed this application under section 439 of the Cr.P.C. for his release on bail.
 3. Learned Counsel for the Petitioner submits that pursuant to recovery of 60 and odd kgs. of ganja, the Petitioner having been arrested in the case, is in custody since 10.12.2021. He further submits that admittedly this Petitioner was not present when the members of the police force arrived at the spot. It is submitted that the basis of implication of this Petitioner is the statement of co-accused persons to the effect that this Petitioner at that time had gone to another place to

procure some more quantity of ganja to be transported together. It is also submitted that with the above statements of the co-accused persons now it is stated that this Petitioner was their associate and thus he is being attributed of the involvement in storage and transportation of above said quantity of ganja seized at the spot. In view of all these above, he urges for grant of bail to the Petitioner, when there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence. 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.

4. Learned Counsel for the State opposes the move. According to her, the stage is too premature to say that this Petitioner had no knowledge about the storage for the purpose of transportation of the 60 and odd kgs. of ganja at the place. She further does not dispute that the Petitioner has been implicated on the basis of the statements of co-accused persons.

4. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner with other surrounding circumstances including the period of detention of the Petitioner in custody and on going through the order passed by the learned Addl. Sessions Judge-cum-Special Judge; in the absence of any such impediment; it is directed that the Petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that:-

1. he will appear in person before the Court in seisin of the case on each date of posting of the case without fail;
 2. will not indulge himself in commission of similar type of offences; and
 3. will appear before the IIC, Chandrapur P.S. every Monday in between 10 am to 3 pm till conclusion of the trial.
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 and Court's Office order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

**(D.Dash),
Judge.**

Narayan