

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.509 of 2022

Salyadu Pabitra Dora & Another ***Petitioners***
Mr. Anil Kumar Nayak, Advocate

-versus-

State of Odisha ***Opposite Party***
Mr. D.R. Parida, ASC

CORAM:
MR. JUSTICE D.DASH

ORDER
02.02.2022

Order No.

01. 1. This matter is taken up through video conferencing mode.
2. The Petitioners being in custody in connection with Pattapur P.S. Case No.418 of 2021 corresponding to G.R. Case No.57 of 2021(N) on the file of learned Special Judge-cum-Sessions Judge, Ganjam running for commission of offence under sections 20(b)(ii)(C) of the N.D.P.S.Act, have filed this application under section 439 of the Cr.P.C. for their release on bail.
3. Learned counsel for the Petitioners submits that these Petitioners who are the husband and wife have been roped in the case on the allegation that they were carrying bags containing 51 kg 490 grams of ganja. He further submits that in presence of the Petitioner No.1, who happens to be the

husband of the Petitioner No.2 , the knowledge of Petitioner No.2 as to the keeping of the bags carried in the scooty is not readily inferable. He submits that except saying that the bag containing ganja was recovered from the scooty; no further material as yet been collected to connect the said bag with the Petitioner No.1. In view of all these above, he urges for grant of bail to the Petitioners, as according him, the bar under section 37 of the N.D.P.S. Act does not stand on the way and there remains no scope on the part of the Petitioners to flee from justice and tamper the evidence.

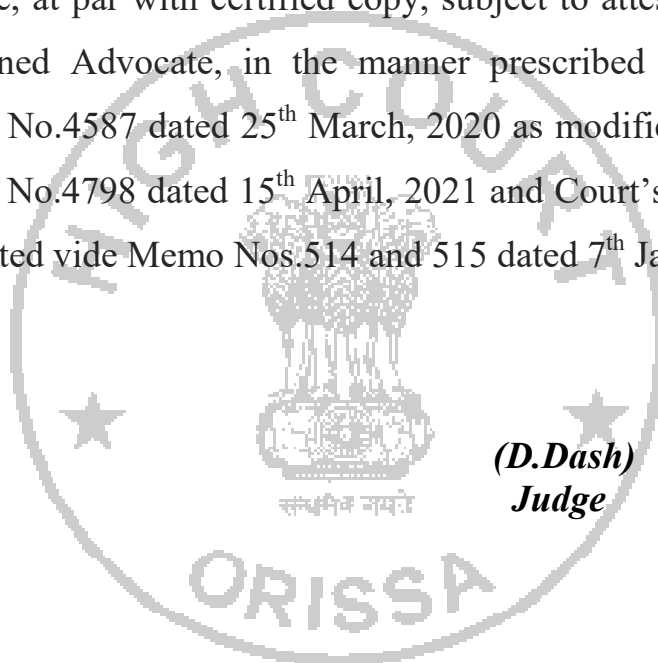
4. Learned counsel for the State opposes the move. According to him, the Petitioners when were travelling together in the scooty wherefrom the bags containing the ganja have been recovered; the presumption as to their knowledge about the carriage of the bags with the contents stands drawn and only during trial, they would have the scope to rebut the same. According to him, the present stage is too premature to take a view on that aspect as submitted by the learned counsel for the Petitioners.

5. Considering the submissions made; further keeping in view the materials on records as those stand against the Petitioners with other surrounding circumstances and on going through the order passed by the learned Special Judge; while being not inclined to grant bail to the Petitioner No.1, this Court allows the prayer for grant of bail to the Petitioner No.2. Accordingly, it is directed that the Petitioner No.2 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 the said Petitioner No.2 will not indulge herself in commission of similar activity and will not leave the jurisdiction of the court without prior permission.

5. The BLAPL is accordingly disposed of.

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.



Aks