

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 576 of 2022

Subash Chenda @ Chand

....

Petitioner

Mr. P.K.Nanda, Advocate

- Versus -

State of Odisha

.... ***Opposite Party***

*Mr. Sitikanta Mishra,
Additional Standing Counsel*

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

30.6.2022.

Order No.

3.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned Addl. Standing Counsel for the State.
3. The petitioner is in custody since 6th September, 2021 in connection with Jeypore Sadar P.S. Case No.219 of 2021 corresponding to T.R. Case No. 82 of 2021 pending in the Court of learned Sessions Judge-cum-Special Judge, Koraput-Jeypore for the alleged commission of offence under Section 20(b)(ii)(C)/29 of NPDS Act.
4. The prosecution allegation is that four persons were found to be transporting contraband ganja. A raid was conducted by the staff of Sadar Jeypore Police Station. Seeing the police, one of the culprits was apprehended while the other three ran away. In so far as the present petitioner is concerned, save and except the statement of the co-accused, that is the person who was apprehended by police, there is no other independent material to corroborate the statement. In the case of *Tofan Singh vs. State of Tamil Nadu*, reported in (2020) 80 OCR (SC) 641, the Apex Court has categorically held that the statement of the co-accused cannot be the basis of implication of a

person. Though the seized contraband is huge and more than commercial quantity weighing 1008 Kgs. yet in absence of any acceptable legal evidence to show the involvement of the petitioner or the recovery of the said contraband from his exclusive and conscious possession as also taking into account the period of detention in custody without commencement of trial, I am inclined to allow the prayer for bail. Let the petitioner be released on bail on such terms and conditions as the court in seisin over the matter may deem fit and proper to impose including the condition that he shall personally appear before the Court in sesin over the matter on each date of posting of the case and in case of even a single default necessary order shall be passed by the said Court to take him to custody again. Further, he shall appear before the IIC of Machhkund Police Station once every fortnight till conclusion of trial and such fact shall be certified by the IIC to the concerned Court every month.

5. The BLAPL is accordingly disposed of.

6. Issue urgent certified copy of this order be granted on proper application.

(Sashikanta Mishra)
Judge

AKB c