

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO.1031 OF 2020

Jitendra Randhwa

....

Petitioner

Mr. Biswajit Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. S.K.Nayak, AGA.

CORAM:

MR. JUSTICE D.DASH

ORDER

17.10.2022

Order No.

08.

1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.

2. Prayer made by the Petitioner for change of the Counsel and engagement of Mr. Biswajit Nayak, learned Counsel to move the matter is accepted. Name of Mr. Shyam Manohar, learned Counsel be deleted from the brief.

3. This the second journey of this Petitioner who is in custody in connection with Jeypore Town P.S. Case No.116 of 2019 corresponding to T.R. Case No.31 of 2019 on the file of learned Sessions Judge-cum-Special Judge, Koraput-Jeypore running for commission of offence under Section- 20(b)(ii)(C)/25 /29 of the NDPS Act, in filing 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 arrested in the case is in custody since 08.06.2019 for his involvement in carriage of 120 Kg. 700 grams of ganja in the vehicle and it is said that he at that point of time of interception was driving the vehicle. He further submits that in the meantime, co-accused persons namely, Samir Randhawa, who is the registered owner of the vehicle and happens to be the

brother of this Petitioner has been released on bail so also other co-accused Shubham Shivhari who is said to be sitting in the vehicle at the relevant point of time. He further submits that this Petitioner had no knowledge about the keeping of contraband ganja in the vehicle belonging to his brother and he had accompanied his brother on his request and that brother was present with him all throughout the journey. In view of all these above, according to him at this stage, the bar contained under Section-37 of the NDPS Act does no more stand on the way of grant of bail to the Petitioner. He, therefore, urges for reconsideration of prayer for grant of bail to the Petitioner on such terms and conditions as deemed just and proper, when the trial in the case is not likely to be concluded so soon.

4. Learned Counsel for the State opposes the move. According to him, the Petitioner being the driver of the vehicle, prima facie presumption as to his involvement in transportation of the contraband ganja stands and he cannot feign his total ignorance by saying that in presence of his brother, he had no knowledge about the keeping of such ganja when he was on the wheels. He further submits that in view of the materials available on record, there remains all the possibility for the Petitioner to flee from justice in the event of his release on bail and accordingly, the conclusion of the trial is likely to be pushed to uncertainty.

5. 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 in the absence of any such impediment; while being inclined to reconsider the

prayer for grant of bail to the Petitioner, 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 shall furnish his present address along with the contact mobile numbers by way of affidavit and in case of any change, shall intimate the same in that way;
2. shall appear before the Inspector-in-Charge of Faridabad NIT Police Station, in the district of Faridabad, Haryana every Monday & Thursday in between 10.00 am to 2.00 pm for a period of next one year and after expiry of one year, he will appear once in a week before the IIC, Jeypore Town P.S. till conclusion of the trial; and
3. shall appear in person before the Court in seisin of the case on each and every date of posting of the case till conclusion of the trial.

Violation of any of the condition(s) shall entail cancellation of bail.

6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

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

Narayan