

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.1664 OF 2022

Bhaskar Mallick

.... **Petitioner**
Mr. J.K. Panda, Advocate

-versus-

State of Odisha

.... **Opposite Party**
Mr. S.K. Nayak, ASC.

CORAM:

MR. JUSTICE D.DASH

ORDER

23.09.2022

Order No.

02.

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

2. This is the second journey of the Petitioner, who is in custody in connection with Balliguda P.S. Case No.127 of 2020 corresponding to C.T. Case No.32 of 2020 pending on the file of learned Addl. Sessions Judge-cum-Special Court, Balliguda, running for the alleged commission of offence under section-20(b)(ii)(C)/25/29 of the NDPS Act, in filing this application under section 439, Cr.P.C., for reconsideration of the prayer for grant of bail to the Petitioner in the above mentioned case.

3. Learned Counsel for the Petitioner submits that on the allegation that the Petitioner was in possession of 116 Kgs. of ganja, he being arrested in the case is in custody since 04.07.2020. He further submits that the prosecution having said that the Petitioner was present at the time of raid in the house has attributed his possession to the said seized contraband ganja, when the ownership of the house in question rests with the co-accused Hemanta Digal @ Raja and there were other occupants too. He further submits that the investigation of the case is complete and the Petitioner being a permanent resident of the District of Kandhamal, the question of his fleeing from justice does not arise, when also there arises no scope on his part to tamper the evidence as most of the witnesses are officials. It is also his submission that

the co-accused, namely, Hemanta Digal @ Raja has in the meantime been released on bail by order passed by this Court on 08.08.2022 in BLAPL No.1700 of 2022. In view of all these above, he urges for reconsideration of the prayer for grant of bail to the Petitioner as according to him, at this stage, the bar contained under section-37 of the NDPS Act does not stand on the way of grant of bail to the Petitioner.

4. Learned Counsel for the State opposed the move in view of the quantity of the contraband seized.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner as also the surrounding circumstances and the period of detention of the Petitioner in custody; while being inclined to reconsider the prayer for grant bail to the Petitioner in the aforesaid case, it is directed that the Petitioner be released on bail on such terms and conditions as deemed just and proper by the Court in seisin of the case with further conditions that:-

1. Petitioner will appear in person before the Court in seisin of the case on each date of posting the case till conclusion of the trial;
2. will appear in person before the IIC, Balliguda P.S. every Monday in between 10 am to 2 pm till conclusion of the trial; and
3. will not indulge himself in commission of similar type of offences.

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.**