

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 1544 of 2021

1. Amarkanta Digal

2. Angura Kanhar

....

Petitioner

Mr. A.R. Panda, Advocate

Versus

State of Odisha

....

Opposite Party

Mr. S.S. Pradhan, A.G.A.

CORAM:

JUSTICE SAVITRI RATHO

ORDER

22.02.2022

Order No.

07. 1. This matter is taken up through hybrid mode.
2. Heard Mr. A.R. Panda, learned counsel for the petitioners and Mr. S.S. Pradhan, learned Addl. Govt. Advocate for the State.
3. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioners-Amarkanta Digal and Angura Kanhar in connection with Sarangada P.S. Case No.10 of 2021 corresponding to C.T. Case No. 6 of 2021 pending in the Court of the learned Special Judge -cum- Addl. Dist. & Sessions Judge, Baliguda, Kandhamal for commission of offence punishable under Sections 20(b)(ii)(C)/25/29 of the N.D.P.S. Act.
4. The petitioner had moved an application for bail before the Court of learned Special Judge -cum- ADJ, Balliguda which was rejected on 12.02.2021.
5. The prosecution allegations in brief are that on 02.02.2021 at about 1.00 p.m. as S.I. of Police of Sarangada along with staff while performing patrolling and MV checking duty at village Gutingia, Padangi and Birangi area got reliable information that two persons were transporting huge quantity of contraband ganja in a white colour car. So they proceeded to the spot and detained the

white car carrying two persons. On being asked the accused persons disclosed their names. On search of the vehicle 20 kgs. 800 grams of ganja was seized from the dicky. After observing all formalities in compliance to the NDPS Act, seizure list was prepared at the spot and the accused arrested.

6. Mr. A.R. Panda, learned counsel for the petitioners submits that the petitioners are in custody since 02.02.2021 and the trial has not yet started. He also submits that the petitioners have no criminal antecedents and keeping in view the fact that flowering and fruiting tops of ganja along with leaves were allegedly seized and there is discrepancy regarding the weight of ganja seized in the statement of witnesses and the seizure list, possibility of error in weighment cannot be ruled out bringing the weight of the seized ganja below 20 kgs.

7. The learned State Counsel does not dispute the submission regarding discrepancy between statements of some witnesses and the seizure list regarding the quantity of ganja seized but he submits that instructions regarding lack of criminal antecedents have not yet been received in spite of letter sent to the concerned I.I.C.

8. Considering the submissions of the learned counsel for the respective parties, the nature of accusations against the petitioners, period of their detention in custody, submission regarding absence of criminal antecedents, discrepancy in the weight of ganja seized and possibility of error in weightment, I am inclined to allow the prayer for bail of the petitioners.

9. Let the petitioners- Amarkanta Digal and Angura Kanhar be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, including the following conditions:

(i) They will not indulge in any criminal activity while on bail.

(ii) They will not threaten or try to influence prosecution witnesses while on bail.

(iii) Before releasing the petitioners on bail, the learned trial Court shall call for the criminal antecedents of the petitioners and shall release the petitioners only after being satisfied that they do not have any criminal antecedents.

10. No observations in this order shall influence the trial Court during trial.

11. The BLAPL is accordingly disposed of.

12. Urgent certified copy of this order be granted on proper application.

Sukanta

