

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.1988 of 2022

Rajeeb Mali

.... ***Petitioner***
Mr.S.K. Dash, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. B. Panigrahi, ASC

**CORAM:
MR. JUSTICE D.DASH**

**ORDER
06.07.2022**

Order No.

02. 1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. This is the successive journey of the petitioner, who is in custody in connection with Adava P.S. Case No.107 of 2021 corresponding to G.R. Case No.107 of 2021 pending in the court of the learned Sessions Judge-cum-Special Judge, Parlakhemundi running for the alleged commission of offence under section 20(b)(ii)(C)/28 of the NDPS Act in filing this application under section 439, Cr.P.C. for his release on bail.
3. Learned counsel for the Petitioner submits that on the allegation that this Petitioner with five others were transporting contraband ganga weighing 51 kg 400 grams in the Auto Rickshaw; he being arrested in the case is in custody since 10.10.2021. He further submits that co-accused persons, who were travelling in the Auto Rickshaw have in the meantime been released on bail and the prayer for grant of bail to the

Petitioner had been earlier rejected on the ground that he at the point of time was on the driver's seat. He submits that in presence of other accused persons in that Auto Rickshaw when the recovery of contraband ganja has been made from the Auto Rickshaw, even if it is accepted that the Petitioner was the driver, he cannot be placed at a higher footing than others. He further submits that this Petitioner being a permanent resident of the district of Gajapati, there remains no scope on his part to flee from justice and the question of tampering the evidence at his instance does not arise, as most of the witnesses are officials. In view of all these above, he urges for reconsideration for grant of bail to the Petitioner as further detention of the Petitioner in custody would serve no useful purpose.

4. Learned counsel for the State opposes the move as the case relates to seizure of commercial quantity of ganja and this Petitioner being one with others in the Auto Rickshaw prima facie his culpability stands attracted.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the petitioner as also the quantity of seized contraband with other surrounding circumstances; while being inclined to reconsider the prayer for grant of bail of this 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 is seisin of the case with further conditions that :-

- (i) he will appear in person before the court in seisin of the case on each date of posting of the case till conclusion of the trial;
 - (ii) will appear before the Inspector-in-Charge of Adava P.S. on every Monday in between 10.00 a.m. to 2.00 p.m. for a period of one year; and
 - (iii) will not indulge himself in commission of similar type of offence.
6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

(D. Dash)
Judge.

Himansu

