

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2099 of 2021

Madan @ Madanlal Jatav

.... Petitioner

Mr. Ashok Das, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. Sitikant Mishra, A.S.C.

**CORAM:
JUSTICE A.K.MOHAPATRA**

**ORDER
23.08.2022**

Order No.

07. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Addl. Standing Counsel for the State.
3. This is an application under Section 439, Cr.P.C. filed by the Petitioner for bail in connection with R. Udayagiri P.S. Case No.54 of 2020 corresponding to G.R. Case No.40 of 2022 pending in the Court of learned Special Judge-cum-Sessions Judge, Gajapati, Parlakhemundi, involving offence under Sections 20(b)(ii)(c), and 25 & 29 of the N.D.P.S. Act.
4. Learned counsel for the Petitioner submits that the Petitioner is in custody since 11.08.2020. In the meantime investigation has been completed and charge-sheet has been filed. He further submits that six numbers of bags were recovered from the possession of 6 accused persons including the present Petitioner. It is further stated

that each bag was containing contraband ganja measuring 15kg.100 gms. He further submits that, since the quantity of the ganja seized from the Petitioner is 15kg.100 gm. and the same is less than commercial quantity, bar under Section 37 of the N.D.P.S. Act is not attracted to the present case of the Petitioner. It is further submitted by learned counsel for the Petitioner that the petitioner does not have similar criminal antecedent. He further submits that, although the Petitioner belongs to the State of Madhya Pradesh, however, in the event the petitioner is released on bail, he shall appear before the learned trial court on each and every date fixed for trial and he shall also cooperate for early conclusion of the trial. Learned counsel for the Petitioner also submits that although charge-sheet has been filed since long, but trial has not yet commenced in the case, for which the Petitioner is languishing in custody without trial having been commenced.

5. Learned counsel for the State on the other hand strongly opposes to the bail application of the Petitioner on the ground that the allegation against the Petitioner is very serious in nature. He submits that illegal trafficking of contraband ganja is rising in the State in present days. In view of such situation, learned A.S.C. submits that no leniency should be shown to the accused involved in the offence of present nature, and therefore the Petitioner should not be enlarged on bail.

6. Having heard learned counsels for both the parties, and taking into consideration the materials placed before this Court, I am of the considered view that since the Petitioner is in custody for about last two years and since the trial has not yet commenced in the

case, therefore the same may cause serious prejudice to the Petitioner. Moreover, considering the quantity of ganja seized, which is relatively less than the commercial quantity, this Court deems it proper to release the Petitioner on bail.

7. Accordingly, it is directed that the Petitioner shall be released on bail by executing bail bond of Rs.50,000/- (Rupees Fifty Thousand) with two local solvent sureties each for the like amount to the satisfaction of learned court in seisin over the matter, but subject to the following further conditions –

- (i) The Petitioner shall not be involved in any offence of similar nature, while on bail;
- (ii) He shall not tamper with the prosecution evidence or shall not try to threaten, terrorise or influence the prosecution witnesses in any manner whatsoever;
- (iii) He shall appear before the learned trial court on each date fixed for trial, without fail.
- (iv) He shall not leave the jurisdiction of the Court in seisin over the matter and shall furnish his correct address and mobile number to the police from time to time for verification.

Violation of any of the conditions shall entail cancellation of bail of the Petitioner.

8. It is open for the learned court in seisin over the matter to impose any other conditions, as may be deemed just and proper in the facts and circumstances of the case.

9. The BLAPL is disposed of accordingly.

10. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge

S.K.Parida

