

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2191 of 2022

Lalita digal

Petitioner
....
M/s. R.K.Mohapatra, Advocate

-versus-

State of Orissa

Opp. Party
....
M/s.P.K.Patnaik, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

16.11.2022

Order No.

- 07.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Phiringia P.S. Case No. 123 of 2021 corresponding to C.T.(NDPS) Case No.67 of 2021 pending in the Court of learned District & Sessions Judge-cum-Special Judge, Kandhamal, Phulbani for commission of offence punishable U/Ss. 20(b)(ii)(C)/25/29 of the N.D.P.S. Act read with Section 25 of Arms Act on the allegation of transporting 101Kgs 200 grams of contraband Ganja.
 3. In the course of hearing of the bail application, Mr.R.K.Mohapatra, learned counsel for the petitioner submits that the petitioner is admittedly inside jail custody since 28.09.2021 and as per the story of prosecution, there are two vehicles involved in transportation of contraband Ganja, out of which one vehicle was escorting the other one in which contraband Ganja was being carried and the occupants of the escorting vehicle have been granted bail, besides grant of bail to one child-in-conflict-with-law who was also a occupant of the vehicle carrying contraband Ganja. It is further

submitted that in view of the aforesaid materials, the petitioner has made out a case for recording satisfaction of mandatory provision U/S. 37 of N.D.P.S. Act in view of the fact that he has not got any criminal antecedent to his credit and his implication in this case is on the basis of confession of other co-accused persons including the petitioner. It is also submitted that the seizure list reflects seizure of contraband Ganja from all the accused persons but surprisingly the quantity of contraband Ganja has not been mentioned therein. It is, accordingly, prayed to enlarge the petitioner on bail.

4. On the contrary, learned counsel for the State submits that the quantity of contraband Ganja allegedly seized in this case is more than 100Kgs. which comes under commercial quantity and Section 37 of N.D.P.S. Act would operate as a bar for release of the petitioner on bail, especially when the petitioner was occupant of the vehicle in which contraband Ganja was carried. It is, accordingly, prayed to reject the bail application of the petitioner.

5. Considering the rival submissions made, nature and gravity of offence as also the accusations against the petitioner, the quantity of contraband Ganja alleged to have recovered to be 101Kgs. 200 grams and the fact that the petitioner was allegedly an occupant of the car in which contraband Ganja was stated to have been transported and keeping in view of the fact that this Court on conspectus of the materials on record considers it hard to record satisfaction at this stage of the case that the petitioner is not guilty for commission of offence involving commercial quantity of contraband article and he is unlikely to commit the offence while on bail and taking other circumstance in entirety, this Court considers it undesirable to grant bail to the petitioner.

6. Accordingly, the BLAPL stands disposed of.
7. Urgent certified copy of the order be granted on proper application.

Kishore

*(G. Satapathy)
Judge*

