

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.3149 OF 2022

Ambar Biswakarma

.... ***Petitioner***
Mr. B. Mishra, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. S.Jena, ASC.

CORAM:
MR. JUSTICE D.DASH

ORDER
06.12.2022

Order No.

01.

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 Nabarangpur P.S. Case No.117 of 2021 corresponding to T.R. Case No.16 of 2021 pending on the file of learned Sessions Judge-cum-Special Judge, Nabarangpur, running for the alleged commission of offence under section 20(b)(ii)(C)/29 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 that this Petitioner being arrested in the case in March, 2021 on the allegation that he was involved in transportation of 150 Kgs. of Ganja, he has been is in custody since then. He submits that this Petitioner being the driver of the vehicle acting under the direction of his employer who happens to be owner of the vehicle had no such knowledge as to keeping of ganja in the

said vehicle for carriage. He further submits that the Petitioner has no such antecedent as to his involvement in commission of similar type of offence and as he is a permanent resident of the neighbouring State, Chhattisgarh, there remains no scope on his part to flee from justice and the question of tampering the evidence does not arise as most of the witnesses are officials. In view of all these above, according to him the bar contained under section-37 of the NDPS Act at this stage does not stand on the way of grant of bail to the Petitioner. He therefore, urges for reconsideration of the prayer for grant of bail to the Petitioner, when in the trial few witnesses have already examined by now.

4. Learned Counsel for the State opposes the move. According to him, the presence of the Petitioner in the vehicle gives rise to the presumption as to his possession and involvement in the transportation of the contraband ganja. He further submits that the explanation which are now being given would only be decided in the trial. He expresses his apprehension that in the event of release of the Petitioner on bail, there remains all the possibility that the conclusion of the trial would be pushed to the uncertainty.

5. Taking into account the submissions made; further keeping in view the surrounding circumstances especially, 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. he shall furnish his address along with the contact mobile number by way of affidavit and in case of any change, shall intimate the same in that way;
2. shall appear in person before the Court in seisin of the case on each and every date of posting of the case till conclusion of the trial except under some exceptional circumstance to the satisfaction of the Court; and
3. shall appear before the Inspector-in-Charge of Gourila Police Station, in the District of Pendra (Chhattisgarh) every Monday in between 10 am to 2 pm for a period of next one year.

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.**

Narayan