

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2662 of 2021

Bhanu Pratap

....

Petitioner

Mr. Rajib Lochan pattnaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

13.10.2022

Order No.

07. 1. This matter is taken up through Hybrid Arrangement (Virtual / Physical Mode).
2. This is an application under Section 439, Cr.P.C. filed by the Petitioner for bail in connection with Mathili P.S. Case No.32 of 2021 corresponding to Special G.R. Case No.32 of 2021 pending in the court of learned Sessions Judge-cum-Special Judge, Malkangiri, for commission of alleged offence under Sections 20(b)(ii)(C) & 27 of the N.D.P.S. Act.
3. Heard learned counsel for both the parties. Perused the F.I.R., Case Diary and the statement of witnesses.
4. Learned counsel for the Petitioner submits that the Petitioner was arrested from the spot on 21.02.2021 while he was sitting beside the driver in the truck, which was carrying contraband articles. On query he disclosed his identify before the police that he was the helper in the said vehicle and at the time of occurrence he was about 18 years. Learned counsel for the Petitioner further submits that the Petitioner is in custody since 21.02.2021, i.e. almost one year and

nine months. He further submits that in the meantime investigation has already been completed and charge-sheet has been filed in the case.

Learned counsel for the Petitioner submits that, despite the fact that the Petitioner is in custody since more than 1 ½ years, trial has not yet commenced in the case and there is also no likelihood of commencement of the trial in near future. He further contended that the Petitioner does not have similar Criminal Antecedent in his name. It is further stated that the quantity of contraband ganja seized was 252 kgs. Learned counsel for the Petitioner also submits that the Petitioner has no other Criminal Antecedent of similar nature to the present case.

5. Learned counsel for the State on the other hand vehemently objects to the prayer for bail of the Petitioner on the ground that the Petitioner was transporting contraband articles, and this type of illegal trafficking of contraband articles are increasing day by day in our State. Therefore, no leniency should be shown to the present Petitioner, who is involved in such a crime. Accordingly, the learned A.S.C. prays for rejection of the bail of the Petitioner.

6. Having heard learned counsels for the respective parties and upon careful consideration of the materials placed, this Court is of the view it is premature at this stage to opine that the Petitioner was travelling in the vehicle in question along with the contraband articles. However, considering the age of the Petitioner and the fact that he is in custody since more than 1 ½ years, and the trial is not likely to be commenced in the near future, and the further fact that the Petitioner does not have any Criminal Antecedent of similar

nature to the present case, I am inclined to release the petitioner on bail. Accordingly, the Petitioner is directed to be released on bail on his furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter, but subject to verification of his Criminal Antecedents. If it is found that there is more than one criminal antecedent against the present petitioner, then this bail order shall not be given effect to.

However, the release of the Petitioner shall be subject to the following further conditions –

- (i) The Petitioner shall not involve himself in any other offence of similar nature, particularly relating to offence under the NDPS Act;
- (ii) He shall appear before the learned trial court on each and every date fixed for trial;
- (iii) He shall appear before the I.O. in every month, preferably on Sunday during 10 A.M. to 1.00 P.M. and shall report to the police;
- (iv) He shall not try to tamper with the prosecution evidence in any manner whatsoever;
- (v) He shall not influence or threaten any prosecution witness and shall cooperate with the investigation by appearing before the I.O. as and when required.
- (vi) The Petitioner shall provide his latest present address and mobile number to the I.O. for communication, and if any changes happen thereafter, he shall also intimate the same to the I.O. with the up-to-date data.

(vii) He shall not leave the jurisdiction of the court in seisin over the matter without special permission from that court, failing which the learned trial court shall issue N.B.W.A. against the Petitioner.

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

7. It is further directed that the court in seisin over the matter shall verify the criminal antecedents of the Petitioner and may impose any additional condition(s), if situation so warrants. This order shall remain valid, in the event the court in seisin over the matter is satisfied that the Petitioner has no other criminal antecedent of similar nature.

8. With the aforesaid directions and observations, this BLAPL is disposed of.

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

(A.K. Mohapatra)
Judge