

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.2778 OF 2021

Nabaghana Kanhar

....

Petitioner

Mr. Sitikant Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. D.R. Parida, ASC.

CORAM:

MR. JUSTICE D.DASH

ORDER

11.03.2022

Order No.

04.

1. This matter is taken up through hybrid arrangement (physical/ virtual) mode.
2. This is the successive journey of the Petitioner who is in custody connection with Phiringia P.S. Case No.69 of 2018 corresponding to C.T. Case No.34 of 2018 on the file of learned Addl. District & Sessions Judge-cum-Special Judge, Phulbani running for alleged commission of offence under section 20(b)(ii)(C) of the NDPS Act, in filing this application under Section-439 of the Cr.P.C. for his release on bail.
3. Learned counsel for the Petitioner submits that on the allegation that the Petitioner was in possession of 120 Kgs. 700 grams of ganja, he being arrested in the case is in custody since 24.09.2018. He further submits that despite such long period of detention of the Petitioner in custody, the trial has not made any substantial progress and for the said detention, not only the Petitioner is suffering but also all his family members who

depend on him are no more in a position to continue without the help and aid of this Petitioner. In view of all these above, when there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence; he urges for reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned Counsel for the State opposes the move. According to him, the quantity involved in the case being commercial; the bar contained under Section -37 of the NDPS Act stands on the way of grant of bail to the Petitioner.

At this stage, learned Counsel for the Petitioner submits that the Petitioner when has remained in custody for such a long period, the progress of the trial is going on at a snail's pace at a snail pace when four witnesses out of eighteen witnesses have been examined from the side of the prosecution. So, he contends that the bar may not now be applied.

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 is seisin of the case with further conditions that:-

- 1) Petitioner will appear before the Court in seisin of the case on each date of posting of the case till conclusion of the trial;

- 2) Will appear before the IIC, Phiringia P.S. every Monday and Thursday in between 10 am to 2 pm till conclusion of the trial; and
- 3) Will not indulge himself in commission of similar type of offences.

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