

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.2816 OF 2021

Jitendra Padhy @ Jitu

....

Petitioner

Mr.S.K. Bhanjadeo, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr.D.R. Parida, ASC

CORAM:

MR. JUSTICE D.DASH

ORDER

05.05.2022

Order No.

02.

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 Baliguda P.S. Case No.127 of 2019 corresponding to C.T.Case No.104 of 2019 pending on the file of learned Additional Sessions Judge-cum-Special Judge, Baliguda, Kandhamal, running for the alleged commission of offence under section 20(b)(ii)(C)/25/29 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 on the allegation that this Petitioner, at the relevant time of interception of the vehicle wherefrom contraband ganja of 64 kgs & 400 grams kept in two bags; one in dickey and another on the rear side of the vehicle, have been recovered; he has been arrested and is in custody since 02.10.2019. He further submits that in the meantime co-accused, namely, Pramod

Kumar Behera has been released on bail and this Petitioner having been granted with interim bail, has surrendered before the Court and it is not reported that he has misused the liberty. He also submits that despite such long period of detention of the Petitioner in custody, there has been no noticeable progress in the trial. In view of all these above, when there remains no scope on the part of the Petitioner to flee from justice and the question of tampering the evidence here does not arise, according to him, the bar contained under section 37 of the N.D.P.S. Act at this stage does not stand on the way of reconsideration of the prayer for grant of bail to the Petitioner, who being a poor driver, was merely acting under the direction of his employer.

4. Learned counsel for the State opposes the move. According to him, this Petitioner, being involved in transportation of 64 kgs & 400 grams of ganja falling within the commercial quantity, the bar contained in section 37 of the NDPS Act squarely comes into play. He, however, does not dispute that the Petitioner is in custody since 02.10.2019 and having been granted with interim bail, has surrendered in Court and is now in custody. He also submits to have received no such instruction regarding misuse of the liberty of the Petitioner during the period of interim bail.

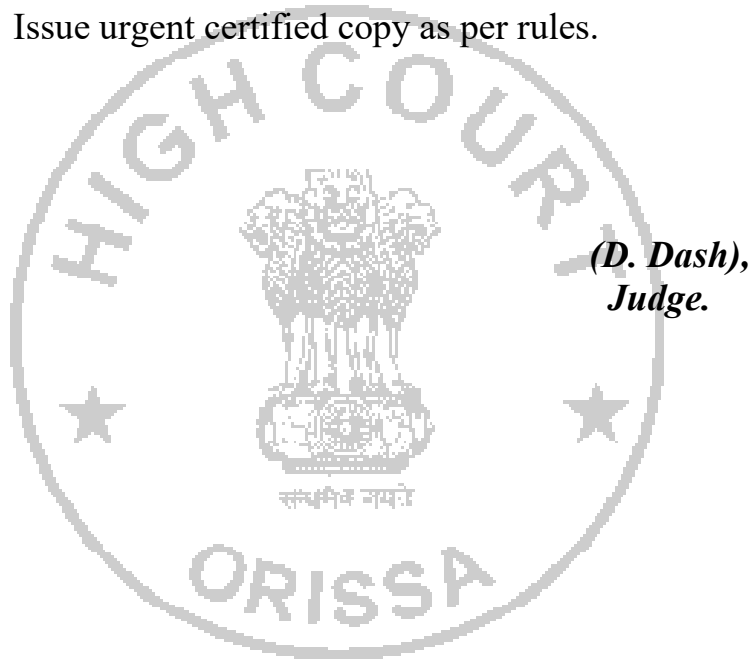
5. Taking into account the submissions made; further keeping in view the surrounding circumstances especially, the period of detention of the Petitioner in custody; while being inclined to reconsider the prayer for grant bail to the Petitioner in the aforesaid case, it is directed that the Petitioner 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 he 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 and shall 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.**

Basu