

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3490 of 2022

Sisira Kanhar

.... ***Petitioner***
Mr. Suraj Mohanty, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
18.05.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel.
3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with P.R. No.98 of 2021-22 of OIC of Excise, District Mobile, Phulbani corresponding to 2(a) C.C. No.09 of 2022 pending in the Court of the learned Special Judge, Kandhamala, Phulbani for alleged commission of offence under Sections 20(b)(ii) (C) of N.D.P.S.Act.
4. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in custody since 12.03.2022. It is further submitted by the learned counsel for the Petitioner that the Petitioner is a co-passenger of the vehicle and the seized ganja was kept inside the dickey of the vehicle. It is also submitted by the learned counsel

for the Petitioner that the mandatory provisions of Sections 42 and 50 of the NDPS Act has not been complied with in this case. It is also submitted by the learned counsel for the Petitioner that since the Petitioner is a permanent inhabitant of Kandhamal district, there is no chance of absconding or fleeing from receiving justice and in the event of his release, he will appear before the trial court on each date of posting of the case and shall abide by the terms and conditions that may be imposed by this Court.

6. Learned Additional Standing Counsel vehemently opposes the prayer for bail of the Petitioner and submits that illegal trafficking of contraband articles is rising day by day and no leniency should be shown to the Petitioner or similarly situated persons.

7. Having heard learned counsel for the parties, considering the surrounding circumstances of the case and the period of custodial detention of the Petitioner and the fact that the Petitioner is a co-passenger of the vehicle, I am inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions:

- i) he shall not indulge himself in any similar nature of offence.
- ii) shall appear before the trial court on each and every date fixed by the trial court till conclusion of trial.
- iii) shall not tamper with the prosecution evidence.
- iv) shall not influence or threaten any prosecution witnesses while on bail.
- v) he shall appear before the concerned Police Station once in a fortnight preferably on Sunday in between 10 A.M. to 1 P.M. till conclusion of trial.

- vi) Violation of any of the terms and conditions shall entail cancellation of bail.
- 8. The trial court may impose any other condition(s) as deem fit and proper.
- 9. BLAPL is accordingly disposed of.
- 10. Issue urgent certified copy as per Rules.

RKS

(A.K. Mohapatra)
Judge

