

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3561 of 2022

Atul Kumar

....

Petitioner

Mr. Suryakanta Dasmohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. S.K. Nayak, AGA

CORAM:

MR. JUSTICE D.DASH

ORDER

11.08.2022

Order No.

01. 1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. This is the successive journey of the Petitioner, who is in custody in connection with Machkund P.S. Case No.68 of 2018 corresponding to T.R. No.24 of 2018 pending on the file of the learned Additional Sessions Judge-cum-Special Judge, Koraput, running for the alleged commission of offence under sections 20(b)(ii)(C) 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 this Petitioner being arrested in the case on 26.07.2018 is in custody since then and the trial has practically made no progress as out of so many prosecution witnesses only one seizure witness has been examined. He further submits that this Petitioner being the only earning member of the family for his long period of

detention all his family members, who are depending on him have suffered a lot and the position now is such that they are no more also to continue as such without the help of the Petitioner. He, therefore, submits that at this stage the bar contained section 37 of the NDPS Act does not stand on the way for grant of bail to the Petitioner, who is said to have been involved in transportation of 65 kg 950 grams of ganja. He, therefore, urges for reconsideration of the prayer for grant of bail to this Petitioner on such terms and conditions as deemed just and proper.

4. Learned counsel for the State opposes the move. According to him, the Petitioner being a man of Uttar Pradesh, there remains all the possibility that in case of his release on bail, conclusion of the trial would be pushed to uncertainty. He, however, does not dispute the position that the progress of the trial is going on at a snail's space. It is submitted that here the manner of carriage of that contraband ganja is peculiar and that gives a hint that this petitioner had full knowledge about the carriage.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the petitioner as also the quantity of seized contraband with other surrounding circumstances including the period of detention of the petitioner in custody; while being inclined to reconsider the prayer for grant of bail to the Petitioner in the aforesaid case, it is directed that the petitioner be released on bail in the aforesaid case on such terms and conditions as

deemed just and proper by the court is seisin of the case with further conditions that:-

- (i) he will appear in person on each date of posting of the case before the court in seisin of the case without fail;
 - (ii) will report before the Officer-in-Charge of the Meerut police station, village.-Meerut (Bhapra), Dist-Ghaziabad, State of Uttar Pradesh once in a month without fail till conclusion of trial; and
 - (iii) will give his contact address and cell phone numbers by furnishing affidavit and in case of change shall so intimate by further affidavit before the court in seisin of the case.
6. The BLAPL is accordingly disposed of.
 7. Issue urgent certified copy as per rules.

(D. Dash)
Judge