

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3701 of 2022

Nita Gamango

.... ***Petitioner***
Mr. S.K. Nayak, Advocate

-versus-

State of Odisha

.... ***Opp. Party***
Mr. S.S. Pradhan, AGA

CORAM:
JUSTICE G. SATAPATHY

Order No.

ORDER
11.11.2022

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Mr. Rabindra Kumar Sahoo, learned counsel submits to delete his name from the cause list as well as from the brief in view of the fact that the brief has been transferred in the meantime. Accordingly, the name of Mr. Rabindra Kumar Sahoo, learned counsel be deleted from the cause list as well as from the brief.
 3. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Adava P.S. Case No.75 of 2020 corresponding to G.R. Case No.46 of 2020 pending in the Court of learned Special Judge, Gajapati, Paralakhemundi for commission of offence punishable U/S. 20(b)(ii)(c)/25/29 of NDPS Act, on the allegation of facilitating transportation of contraband Ganja by his Bolero Pick up vehicle.
 4. In the course of hearing of the bail application, learned counsel for the petitioner submits that FIR was lodged on 28.08.2020 against

unknown person but the petitioner was arrested on 19.01.2022 on the ground that his vehicle was found with contraband Ganja to the tune of 175Kg 700grams. It is submitted by learned counsel for the petitioner that neither any contraband Ganja was recovered from the possession of the petitioner nor had he entered into any conspiracy facilitating other accused persons to transport the contraband Ganja in his vehicle and the only allegation appearing against the petitioner is his confession before the police authority which is quite inadmissible in the eye of law. It is further submitted that the petitioner had contracted one Surat Mandal to sell the vehicle and accordingly delivered the vehicle to said Surat Mandal but due to Covid-19 pandemic he could not transfer the ownership of the vehicle through a legal document and if the allegations are considered to be true, he has no liability for the aforesaid reason. On the above grounds, learned counsel prays to enlarge the petitioner on bail.

5. On contrary, learned counsel for the State submits that when the petitioner has confessed to have given his vehicle for transportation of contraband Ganja and the vehicle having found detained by police carrying contraband Ganja to the tune of 175Kg 700grams which is coming under commercial quantity, the petitioner shall not be granted bail.

6. Considering the rival submissions of the parties, the nature and character of accusations and arrest of the petitioner by police after two years of the occurrence and taking into consideration that the petitioner was not apprehended from the spot as also the FIR being lodged against unknown person(driver) and keeping in view the allegation of seizure of contraband Ganja from the vehicle of the petitioner and regard being had to the implication of the petitioner in

this case on the basis of his confession before police and the law laid down in *Tofan Singh -Vrs.- State of Tamil Nadu, reported in (2020) 80 OCR (SC) 641* and the period of custody of the petitioner since 19.01.2022 and submission of charge sheet, but no criminal antecedent is reported against the petitioner and taking into account the circumstance in entirety, this Court, however, considers the bail application of the petitioner favorably.

7. Hence, the prayer for bail of the petitioner is allowed and he be released on bail on furnishing a cash surety of Rs.10,000/-(ten thousand) in addition to bail bonds of Rs.50,000/- with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case with further conditions that that the petitioner shall not commit similar type of offence while on bail and that the petitioner shall not leave the jurisdiction of the learned trial Court without prior permission till conclusion of trial and the Petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with.

8. Violation of any of the condition would entail automatic cancellation of the bail of the petitioner.

9. Accordingly, the BLAPL stands disposed of.

10. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge