

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3827 of 2022

Sibkesh Sukla

.... ***Petitioner***
Mr. S. Mohanty, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. S.R. Roul, ASC

CORAM:
JUSTICE G. SATAPATHY

ORDER
08.12.2022

Order No.

- 03.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the petitioner for grant of bail in connection with Padmapur P.S. Case No.58 of 2021 corresponding to T.R. Case No.83 of 2021 pending in the Court of learned Additional Sessions Judge-cum-Special Judge, Gunupur for commission of offences punishable under Sections 20(b)(ii)(C) of N.D.P.S. Act, on the allegation of transporting commercial quantity of contraband Ganja to the tune of 420Kgs in a Truck and Mahindra Marazzo vehicle.
 3. In the course of hearing of the bail application, Mr. S. Mohanty, learned counsel for the petitioner submits that the petitioner was apprehended on 29.07.2021 and he is languishing inside jail custody since then. It is further submitted by him that

altogether five persons were apprehended from two vehicles, out of whom three persons have been granted bail in BLAPL Nos.3588 of 2022 and 8970 of 2021, but the petitioner having apprehended from the Truck was not having any knowledge about the transportation of contraband Ganja in the said Truck, as he was the driver of the said Truck, but the petitioner having put behind Bar without his fault. Under aforesaid submissions learned counsel for the petitioner prays to enlarge the petitioner on bail at least on the principle of parity.

4. On the contrary, Mr. S.R. Roul, learned A.S.C. submits that the contraband Ganja seized in this case is coming under commercial quantity and, thereby, Section 37 of N.D.P.S. Act would operate as a Bar for release of the petitioner on bail. It is accordingly prayed by him to reject the bail application of the petitioner.

5. Considering the rival submissions made, the nature and gravity of accusations raised against the petitioner as also the gravity of offence alleged and regard being had to the commercial quantity of contraband Ganja seized in this case and keeping in view the fact that the petitioner was allegedly apprehended from the spot and taking into consideration the mandate of Section 37 of N.D.P.S. Act, especially when the learned A.S.C opposes the bail application of the petitioner, this Court considers it difficult to record satisfaction on a conspectus of materials on record that there are reasonable grounds for believing that the accused is not guilty of such offence and he is unlikely to commit any offence while on bail and, further taking into consideration the other circumstance in entirety as well as the law laid down by Apex Court in *State of Kerala vrs Rajesh and*

others;(2020) 12 SCC 122, this Court, therefore, does not considers it proper to grant bail to the petitioner even on the principle of parity also.

6. Hence, the prayer for bail of the petitioner stands rejected. Trial be expedited as requested by learned counsel for the petitioner.

7. Accordingly, the BLAPL stands disposed of.

8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subhasmita

