

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO.3479 OF 2020

Gadadhar Majhi

.... ***Petitioner***
Mr. M.K. Panda, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. S.K.Nayak, AGA.

CORAM:
MR. JUSTICE D.DASH
ORDER
30.09.2022

Order No.
08.

1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
2. This is the successive journey of the Petitioner, who is in custody in connection with Baipariguda P.S. Case No.113 of 2019 corresponding to T.R. Case No.56 of 2019 pending on the file of learned Sessions Judge-cum-Special Judge, Koraput-Jeypore, running for the commission of offence under section-20(b)(ii)(C) of the NDPS Act, in filing this application under Section 439 Cr.P.C. for reconsideration of the prayer for grant of bail to the Petitioner in the above mentioned case.
3. Learned Counsel for the Petitioner submits that even though the Petitioner is in custody since 19.08.2019, by now not a single prosecution witness has been examined in the trial and in this case, the charge has only been framed on 28.08.2021. He further submits that the allegations against the Petitioner is that he was involved in transportation of 151 Kgs. 600 grams of ganja in the Bolero Pickup vehicle being on its driver's seat; when the fact remains that there was another person in the said vehicle namely, Bhakta Nayak. It is submitted that this Petitioner being the employee of the vehicle of the vehicle when was carrying out

his directions, he has been victim of the circumstance he was having no knowledge as to the keeping of the materials in the vehicle. In view of all these above, according to him the bar contained under section-37 of the NDPS Act at this stage does not stand on the way of grant of bail to the Petitioner and therefore, when there remains no scope on the part of the Petitioner to flee from justice and the question of tampering the evidence does not arise as most of the witnesses are officials, he urges for reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned counsel for the State opposes the move in view of quantity of ganja involved in the case. He, however submits that the delay in the trial is not due to any laches on the part of the prosecution but because of the unavoidable circumstances. He however, does not dispute the fact that the Petitioner being arrested in the case on 19.08.2019 is in custody since then.

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:-

1. 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;
2. shall appear before the Inspector-in-Charge of Koksara Police Station, in every Monday in between 10 am to 2 pm till conclusion of the trial;

3. he shall not indulge himself in commission of any criminal activity; and
4. shall not leave the district of Kalahandi till conclusion of trial.

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.

Narayan



***(D. Dash),
Judge.***