

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3185 of 2021

Bindeswari Singh

.... Petitioner

Mr. Ashok Das, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. Shashanka Patra, A.S.C.

**CORAM:
JUSTICE A.K.MOHAPATRA**

**ORDER
14.09.2022**

Order No.

08. 1. This matter is taken up through Hybrid Arrangement (Virtual / Physical Mode).
2. This is an application under Section 439, Cr.P.C. filed by the Petitioner for bail in connection with Mohana P.S. Case No.45 of 2021 corresponding to G.R. Case No.42 of 2021 pending in the Court of learned Special Judge-cum-Sessions Judge, Gajapati, Parlakhemundi, for commission of alleged offence under Sections 20(b)(ii)(C), 25 & 29 of the N.D.P.S. Act.
3. Heard learned counsel for both the parties. Perused the F.I.R., Case Diary and the statement of the witnesses.
4. Learned counsel for the Petitioner submits that the Petitioner is languishing in jail custody for more than one & half years, i.e. since the date of his arrest on 19.02.2021. It is stated that the investigation in the case has been completed and charge-sheet has already been filed.

5. The prosecution story in brief is that, one Pinky Kumari Murmu, S.I. of Mohana P.S. lodged a written F.I.R. on 19.02.2021 to the effect that, at about 11.15 A.M. while she was doing patrolling duty along with other staff, saw a Mahindra Scorpio vehicle bearing Regd. No. BR-51 B 6859 was coming towards them. That vehicle was driven by the Driver and some co-passengers including the present Petitioner were sitting in that vehicle. On suspicion she stopped the vehicle on the road and searched the vehicle and it was found that four bags of contraband ganja containing 23 kgs.100 grams in each bag and in total 92 kgs. were recovered and seized from the said vehicle. Learned counsel for the Petitioner submits that five persons in total were arrested from the spot including the driver of the vehicle. He further submits that each one of them was carrying a bag of 23 kgs. 100 grams of contraband ganja, which is little more than the commercial quantity permissible as per law. Learned counsel for the Petitioner further contends that although the Petitioner belongs to the State of Bihar, in the event he is released on bail, he shall appear before the concerned Police Station as well as in the court below, as would be directed by this Court. He further submits that there is no criminal antecedent of similar nature against the present Petitioner.

6. Learned counsel for the State vehemently objects to the prayer for bail of the Petitioner on the ground that the Petitioner along with other four were arrested from the spot while transporting contraband articles. He further submits that, in present days these types of illegal trafficking of contraband articles are increasing day by day thereby spoiling the society at large, and therefore no leniency should be shown to the present Petitioner, who is involved

in such crime. Accordingly, the learned A.S.C. prays for rejection of the bail of the Petitioner.

7. On a careful consideration of the facts of the present case as well as the materials placed before this Court, it appears that there were four passengers in the vehicle. Therefore, it appears that the persons had come in a group with the aforesaid contraband ganja. However, considering the quantity of ganja seized and the period of detention already undergone and further taking into consideration the fact that trial has not yet commenced and there is also less possibility of early conclusion of trial in the case, this Court directs that the Petitioner shall be released on bail by furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter, but subject to verification of the Criminal Antecedent of the Petitioner. In the event it is found that there is more than one criminal antecedent of similar nature against the Petitioner, then this bail order shall stand automatically revoked. However, the release of the Petitioner shall also subject to the following additional conditions –

- (i) The Petitioner shall not involve himself in any other offence of similar nature, particularly he shall not involve in the offence under the NDPS Act;
- (ii) He shall appear before the learned trial court on each and every date fixed for trial;
- (iii) He shall appear before the I.O. in every month, preferably on Sunday during 10 A.M. to 1.00 P.M. and shall report to the police;

(iv) He shall not try to tamper with the prosecution evidence in any manner whatsoever;

(v) He shall not influence or threaten any prosecution witness and shall cooperate with the investigation by appearing before the I.O. as and when required.

(vi) He shall provide his latest present address and mobile number to the I.O. for communication, and if any changes happen thereafter, he shall also intimate the same to the I.O. with the up-to-date data.

(vii) He shall not leave the jurisdiction of the court in seisin over the matter without special permission from that court, failing which the learned trial court shall issue N.B.W.A. against the Petitioner.

Violation of any of the above conditions shall entail cancellation of bail of the Petitioner.

8. It is further directed that the court in seisin over the matter shall verify the criminal antecedents of the Petitioner and may impose any additional condition(s), if situation so warrants. This order shall remain valid, in the event the court in seisin over the matter is satisfied that the Petitioner has no other criminal antecedent of similar nature.

9. With the aforesaid directions and observations, this BLAPL is disposed of.

10. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge