

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO.3589 OF 2021

Shyamal Sarkar

....

Petitioner

Mr. Ashok Sahoo, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Samaresh Jena, ASC.

CORAM:

MR. JUSTICE D.DASH

ORDER

18.10.2022

Order No.

06.

1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.

2. This the second journey of this Petitioner who is in custody in connection with Phulbani Town P.S. Case No.112 of 2018 corresponding to C.T. Case No.29 of 2018 on the file of learned Special Judge-cum-District Judge, Phulbani running for commission of offence under Section- 20(b)(ii)(C) of the NDPS Act, in filing this application under Section-439 of the Cr.P.C. for his release on bail in the above mentioned case.

3. Learned Counsel for the Petitioner submits that this Petitioner being arrested in the case for involvements in transportation of possession of 144.340 Kgs. of ganja which has been recovered from the vehicle with the allegation that he was sitting on the rear seat at the relevant time of interception, he has been in custody since 07.07.2018. He further submits that in despite such long period of detention of the Petitioner in custody the trial, by now is around the mid way. He submits that even police personnels are not attending the trial on repeated service of summons. It is also submitted that co-accused persons similarly situated with the Petitioner have in the meantime been released

on bail. He submits that although it is said that the Petitioner is a man of West Bengal, the fact remains that he resides in the locality and earns his livelihood by working as goldsmith. He, therefore, submits that there remains no scope on the part of the Petitioner to flee from justice and the question of tampering the evidence at this stage also does not arise as most of the witnesses are officials. In view of all these above, he urges for reconsideration of prayer for grant of bail to the Petitioner on such terms and conditions as deemed just and proper; as according to him, at this stage, the bar contained under Section-37 of the NDPS Act does no more stand on the way of grant of bail to the Petitioner.

4. Learned Counsel for the State opposes the move in view of the quantity of contraband ganja involved in the case. He however, does not dispute the position that the Petitioner is in custody since 07.07.2018 and that the co-accused persons have been released on bail.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner with other surrounding circumstances including the period of detention of the Petitioner in custody and in the absence of any such impediment; while being inclined to reconsider the prayer for grant of bail to the Petitioner, 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 in seisin of the case with further conditions that:-

1. Petitioner will 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; and

2. will not indulge himself in commission of similar activity.

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.***