

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4639 of 2022

Chandra Kanhar

....

Petitioner

Mr.Suryakanta Dwibedi, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. S.Patra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

14.09.2022

Order No.

04.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Additional Standing Counsel.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in C.T.Case No.50 of 2021 arising out of Gochhapada P.S. Case No.52 of 2021 pending in the court of learned Sessions Judge-cum-Special Judge, Phulbani for commission of offence punishable under Sections 20(b)(ii)(C) of the N.D.P.S. Act.
5. It is submitted by learned counsel for the petitioner that the Petitioner is in custody since 17.07.2021. Further he submits that the investigation has been concluded and Charge Sheet has been filed. Learned counsel for the Petitioner further contends that since the trial has not yet commenced, therefore, there is no possibility of early

conclusion of trial. Referring to the Prosecution Report learned counsel for the Petitioner submits that the Petitioner was arrested by the Police while he was standing on the road side at village Takeriguda, where he found that he was in possession of two bags containing contraband ganja. Learned counsel for the Petitioner also submits that the bags were kept on the public road and the Petitioner had no knowledge. Learned counsel for the Petitioner submits that confession before the Police is no offence in the eye of law. He further submits that the Petitioner belongs to the locality, therefore, there is no chance of absconding. The Petitioner does not have similar nature of criminal antecedents.

7. Learned Additional Standing Counsel on the other hand opposes the prayer for release of the Petitioner on bail on the ground that such type of crime are rampant in the State and no leniency should be shown to the petitioner or similarly situated persons. Accordingly, learned Additional Standing Counsel prays for rejection of the bail application of the Petitioner.

8. Having heard learned counsel for the parties and upon perusal of the materials placed before this Court and further on consideration of surrounding facts and circumstances and further taking into consideration the fact that there is no likelihood of early conclusion of the trial, the Petitioner is directed to be released on bail on furnishing a 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. Further release of the Petitioner shall be subject to the Petitioner furnishing a cash security of Rs.20,000/- (Rupees Twenty thousand) in shape of cash certificate in the name of the court in seisin over the matter. Further it is

directed that the release of the Petitioner shall also be subject to verification of similar nature of criminal antecedent. In the event it is found that the Petitioner is having similar nature of criminal antecedent, the order shall not be given effect to. Release of the Petitioner shall be subject to the following terms and conditions:

- i) He shall not involve himself in any other offence during the period of bail.
- ii) He shall appear before the trial court on each and every date as fixed by the Court.
- iii) He shall not tamper with the prosecution evidence.
- iv) He shall not influence or threaten any prosecution witness and cooperate with the investigation.
- v) Violation of any of the conditions shall entail cancellation of bail.

9. It is further directed that the bail granted to the Petitioner is subject to the condition that learned court below shall verify whether the Petitioner has any criminal antecedents of similar nature. In the event it is found that the Petitioner has any criminal antecedents of similar nature, this bail order shall automatically stand revoked.

10. The Bail Application is accordingly disposed of.

11. Urgent certified copy of this order be granted on proper application.