

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3909 of 2021

Debendra Rout

.... ***Petitioner***
Mr.A.R.Panda, 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 T.R. No.368 of 2020 arising out of P.R.No.141 of 2020-21 of Excise District Mobile, Bhubaneswar pending in the court of learned Special Judge, Bhubaneswar for commission of offence punishable under Sections 20(b)(C)(ii) of the N.D.P.S. Act.
5. It is submitted by learned counsel for the petitioner that the Petitioner is in custody since 18.09.2020. He further submits that the investigation has been concluded long since and Charge Sheet has

been filed. Learned counsel for the Petitioner further submits that although the Petitioner was arrested from the spot, however, he submits that the Petitioner was working as labour and was unloading some packets. On a perusal of the prosecution report, it appears that the driver of the vehicle fled away from the spot and he has not been apprehended till yet. The present Petitioner, who was working as labour in the vehicle concerned, has been apprehended by the Police and is in custody since more than two years.

6. 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.

7. Having heard learned counsel for the parties and upon consideration of surrounding facts and circumstances and materials placed before this Court it appears that the Petitioner is in custody since more than two years and further on perusal of the P.R. it appears that the Petitioner was caught by the Police when he was unloading packets from the vehicle. Therefore, absolutely the Petitioner was a labour in the vehicle concerned cannot be ruled out.

8. Considering the aforesaid facts and circumstances, it is directed that the Petitioner 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. Release of the Petitioner shall also be subject to verification of criminal antecedents of similar nature. In

the event the Petitioner is found more than one criminal antecedents of similar nature, then the order shall not be given effect to. Release of the Petitioner on bail 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. The Bail Application is accordingly disposed of.

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

RKS

(*A.K. Mohapatra*)
Judge