

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.4357 OF 2020

Hasir Uddin

.... ***Petitioner***
Mr.A.R. Panda, Advocate

-versus-

State of Odisha

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

CORAM:
MR. JUSTICE D.DASH

ORDER
05.05.2022

Order No.

06.

1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
2. This is the second journey of the Petitioner, who is in custody in connection with Boipariguda P.S. Case No.125 of 2019 corresponding to T.R. Case No.62 of 2019 pending on the file of learned Sessions Judge-cum-Special Judge, Jeypore, running for the alleged commission of offence under section 20(b)(ii)(C) of the NDPS Act, in filing this application under section 439, Cr.P.C., for his release on bail.
3. Learned counsel for the Petitioner submits that this Petitioner being arrested in the case on the allegation that he is involved in transportation of 62 kgs of ganja in Scorpio vehicle, which had been intercepted, he has been in custody since 14.09.2019. He further submits that this Petitioner, at the relevant time, is said to be one out of five persons travelling in the said Scorpio and he was having no knowledge as to keeping of said ganja bags in the vehicle. It is also submitted that this

Petitioner, who earns his livelihood by working as a massion in the State of Odisha had been to be place and unfortunately had been a victim of the circumstance when he was being taken by the employer to be left at the place of working and on the way, the detection has taken place. He further submits that in spite of such long detention of the Petitioner, there has been not been any such noticeable progress in the trial and the co-accused persons, similarly situated with this Petitioner, have been released on bail. He, therefore, submits that at this stage, the bar contained under section 37 of the N.D.P.S. Act does not stand on the way of reconsideration of the prayer for grant of bail to the Petitioner especially when there is no scope on his part to flee from justice and tamper the evidence.

4. Learned counsel for the State opposes the move in view of the quantity of ganja seized. According to him, it is too premature a stage to take a view that the Petitioner had no knowledge about the keeping of ganja in the said vehicle, be it that he was travelling as a passenger or as a massion being carried to a distant place.

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:-

- a) he shall furnish his address along with the contact mobile number by way of affidavit and in case of any change, shall intimate the same in that way;
- b) shall appear before the Inspector-in-Charge of Berhampur P.S. in the District of Murshidabad in the State of West Bengal every Monday in between 10.00 am to 2.00 pm for a period of next six months; and
- c) 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 except under some exception circumstance to the satisfaction of the Court.

It is further clarified that in the event the Court in seisin of the case finds that the co-accused persons, namely, Kasim Ali and Aminul Seikh have been violated the terms and conditions imposed on them while granting the bail, in so far as the Petitioner is concerned, keeping that in view, suitable condition should be imposed.

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.

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