

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3971 of 2021

Shyama Mattam

.... ***Petitioner***
Mr.S.K. Sarangi, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. D.R. Parida, ASC

**CORAM:
MR. JUSTICE D.DASH**

**ORDER
03.03.2022**

Order No.

08. 1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. This is the second journey of the petitioner, who is in custody in connection with Machkund P.S. Case No.72 of 2017 corresponding to T.R. Case No.18 of 2017 pending in the court of the learned Additional Sessions Judge-cum-Special Judge, Koraput 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 on the allegation that the Petitioner was involved in transportation of 450 kgs of ganja in a vehicle, he being arrested in the case is in custody since 25.07.2018. He further submits that the Petitioner has not been arrested after detention of the vehicle and as the vehicle belongs to his son, it is falsely stated that the Petitioner

was also travelling in the said vehicle, which was being driven by his son and that he was also involved in the said transportation. It is further submitted that the son of the Petitioner being arrested in the case is in custody and the Petitioner has no criminal antecedent. In view of all these above, he urges for reconsideration of the prayer for grant of bail to the Petitioner, as according to him, the bar contained under section 37 of the NDPS Act at this stage does not stand on the way; there has been no such noticeable progress in the trial. It is also stated that there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence.

4. Learned counsel for the State does not dispute the position that the son of the Petitioner being arrested in the case is in custody, yet he submits that the Petitioner being present in the vehicle with his son, he cannot feign ignorance as to the carriage of the contraband ganja found from the vehicle. It is submitted that the vehicle having been seized on 14.09.2017, the conduct of the Petitioner as reveals from the case dairy stands that he managed to escape and avoid arrest till 25.07.2018. It is his submission that the son of the Petitioner is the owner of the said vehicle and as per the prosecution case; he was on the driver seat when this Petitioner was sitting by his side. He, therefore, opposes the move further citing the quantum of contraband seized.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the petitioner as also the quantity of seized contraband with other surrounding circumstances including the long period of

detention of the petitioner in custody and tardy progress of the trial when there remains least scope on the part of the Petitioner to flee from justice and tamper the evidence; while being inclined to reconsider the prayer for bail of this 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 is seisin of the case with further conditions that :-

- (i) he will appear in person before the court in seisin of the case on each date of posting of the case till conclusion of the trial;
 - (ii) will appear before the Inspector-in-Charge of Machkund P.S. on every Monday in between 10.00 a.m. to 2.00 p.m. till conclusion of trial;
 - (iii) will not leave the jurisdiction of the court; and
 - (iv) will not indulge himself in commission of similar type of offence.
6. The BLAPL is accordingly disposed of.
7. Issue urgent certified copy as per rules.

(D. Dash)
Judge