

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 3979 of 2021

Nirpati Majumdar

....

Petitioner

Mr. Dharanidhar Nayak,
Senior Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. D.K. Pani,
Addl. Standing Counsel

CORAM:

JUSTICE S.K. SAHOO

ORDER

10.01.2022

Order No.

10. This matter is taken up by video conferencing mode.

Heard Mr. Dharanidhar Nayak, learned Senior Advocate appearing for the petitioner and Mr. D.K. Pani, learned Additional Standing Counsel for the State of Odisha.

This is an application under section 439 of Cr.P.C. in connection with T.R. Case No.80 of 2020 arising out of Chitrakonda P.S. Case No.77 of 2020 pending in the Court of learned Additional Sessions Judge -cum- Special Judge, Malkangiri for offences punishable under sections 20(b)(ii)(C)/25 of the N.D.P.S. Act.

The petitioner moved an application for bail before the Court of learned Special Judge, Malkangiri, which was rejected on 08.02.2021.

Learned counsel for the petitioner submitted that earlier the petitioner approached this Court for bail in BLAPL No.1263 of 2021 which was rejected on 15.03.2021 and the learned trial Court was directed to expedite the trial and to conclude the same within a period of six months from the date of framing of the charge and liberty was granted to the petitioner to renew the prayer for bail, if the trial is not concluded within the said period. It is submitted by the learned counsel for the petitioner that the petitioner is in judicial custody since 06.02.2021 and out of fifteen charge sheet witnesses, eleven witnesses have been examined so far and not a single witness has stated anything against the petitioner and the entire accusation against the petitioner is that the petitioner is the registered owner of the offending vehicle but there is no material available on record to show that being the owner of the offending vehicle, the petitioner knowingly permitted the co-accused persons to transport contraband ganja of commercial quantity in his vehicle and there is also no criminal antecedent against the petitioner and therefore, the bail application of the petitioner may be favourably reconsidered.

As per the order dated 03.12.2021, learned counsel for the State was asked to examine the evidence of the witnesses and to obtain instruction from the Inspector in-charge of the concerned police station about the criminal antecedents, if any, against the petitioner.

Learned counsel for the State after going through the deposition copies filed by the learned counsel for the petitioner fairly submitted that no witness has stated anything against the petitioner but the materials are there on record to show that the petitioner is the registered owner of the offending vehicle.

Section 25 of the N.D.P.S. Act states, inter alia, that whoever, being the owner of any conveyance, knowingly, permits it to be used for the commission by any other person of an offence punishable under any provision of the N.D.P.S. Act, he shall be punishable with the imprisonment provided for that offence.

Since learned counsel for the State fairly submitted that there is no material on record that the petitioner, inter alia, knowingly permitted his vehicle for using it in transporting of the contraband ganja of commercial quantity by the co-accused persons and in absence of the criminal antecedent against the petitioner and keeping in view the provision under

section 37 of the N.D.P.S. Act and the period of detention of the petitioner in judicial custody and the fact that the earlier order passed by this Court in BLAPL No.1263 of 2021 has not been complied with, I am inclined to reconsider the prayer for bail and direct the petitioner to be released on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper subject to conditions that the petitioner shall not indulge in any criminal activities in any manner and he shall appear before the learned trial Court on each date when the case would be posted for trial.

Violation of any terms and conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Parties may utilize the soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed vide Office Order dated 7th January 2022.

(S.K. Sahoo)
Judge