

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.4488 OF 2020

Madhu Muduli @ Madan

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

-versus-

State of Odisha

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

CORAM:
MR. JUSTICE D.DASH

ORDER
13.10.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This the successive journey of this Petitioner, who is in custody in connection with Berhampur EI & EB (SD) Excise P.R. No.129 of 2018-19 corresponding to 2(a) C.C. Case No.4 of 2019(N) on the file of learned 1st Addl. Sessions Judge-cum-Special Judge, Berhampur, running for alleged commission of offence under Section-20(b)(ii)(C) of the NDPS Act, in filing this application under Section-439 of the Cr.P.C. for his release on bail.
3. Learned counsel for the Petitioner submits that on the allegation that as to transportation of 94 kgs of ganja by the Petitioner in the vehicle wherefrom the contraband has been recovered, he having been arrested in the case is in custody since 27.01.2019. He further submits that co-accused persons

similarly situated with this Petitioner have already been released on bail. He submits that the trial has not reached at that stage that its early conclusion can be expected. It is submitted that the Petitioner being a permanent resident of the District of Malkangiri, there remains no scope on his part to flee from justice and the question of tampering the evidence at his instance does not arise, as most of the witnesses are officials. In view of all these above, he urges for reconsideration for grant of bail to the Petitioner, as according to him, the bar contained under section 37 of the N.D.P.S. Act at this stage does not stand on the way.

4. Learned counsel for the State opposes the move in view of the quantity of contraband ganja said to have been involved in the case.

5. Considering 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 period of detention of the Petitioner in custody, in the absence of any such impediment; while being inclined to reconsider the prayer for grant of bail to the Petitioner in the aforesaid case, 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:-

- 1) Petitioner will 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;

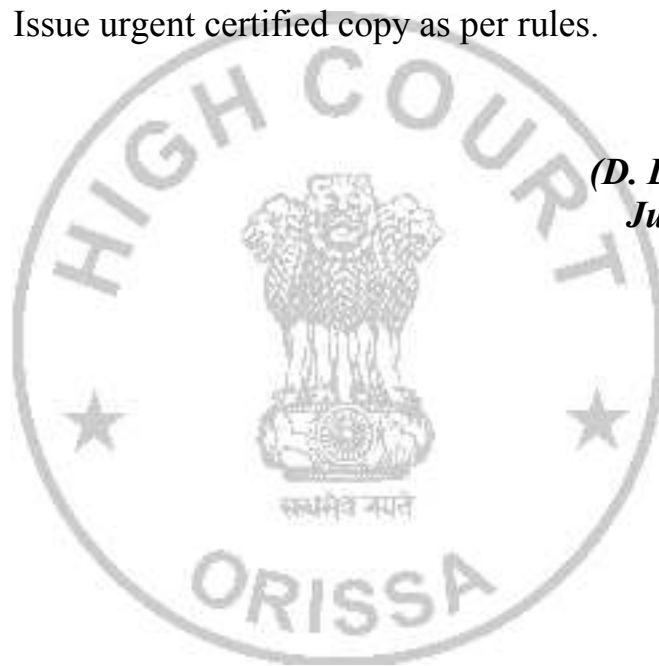
- 2) will not indulge himself in commission of similarly activity; and
- 3) will not leave the jurisdiction of the Court in seisin of the case without prior permission of the Court.

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.**



Narayan