

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.5107 OF 2022

Manoj Kumar Mandal

.... ***Petitioner***
A.N. Pattanayak, Advocate

-versus-

State of Odisha

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

CORAM:
MR. JUSTICE D.DASH

ORDER
20.07.2022

Order No.

01. 1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
2. This the second journey of this Petitioner, who is in custody in connection with Malkangiri P.S. Case No.532 of 2021 corresponding to G.R. Case No.114 of 2021 on the file of learned Sessions Judge-cum-Special Judge, Malkangiri, running for alleged commission of offence under Sections-20(b)(ii)(C)/25/27(a) 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 the Petitioner being arrested in the case on the allegation that he was involved in transportation of 101 kgs of ganja, he has been in custody since 16.11.2021. He further submits that as per the prosecution case this Petitioner was not present at the time of seizure of the contraband and he has been arraigned in the case

on the basis of the statement of the co-accused that they had been engaged by this Petitioner for the purpose. It is submitted that such statement of co-accused persons are inadmissible for being pressed into service against this Petitioner in establishing his complicity. It is submitted that co-accused Sujan Bepari similarly situated with the Petitioner has in the meantime been allowed to go on bail by the order passed by this Court in BLAPL No.1690 of 2022. In view of all these above, when the investigation of the case is complete since long and the Petitioner being a permanent resident of the District of Malkangiri, there remains no scope on his part to flee from justice as also the question of tampering the evidence does not arise as most of the witnesses are official; he urges for reconsideration of the prayer for grant of bail to the Petitioner, who has surrendered in the court below after expiry of the interim bail and has no such adverse report towards his conduct.

4. Learned Counsel for the State opposes the move in view of the quantity of contraband involved in the case. He, however, does not dispute the position that the Petitioner was not present at the time of seizure of the contraband, and arraigned later being the main person dealing with these contraband as per the statement of other accused persons.

5. Considering the submissions made; further keeping in view the materials on records as those stand against the Petitioner with other surrounding circumstances including the factum of release of co-accused person on bail as also the

period of detention of the Petitioner in custody and on going through the order passed by the learned Special Judge; while being inclined to reconsider the prayer for grant of bail to the 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:-

1. he will appear in person before the Court in seisin of the case on each date of posting of the case without fail;
 2. will not indulge himself in commission similar type of offences; and
 3. will appear before the IIC, Malkangiri P.S. every Monday in between 10 am to 2 pm till conclusion of the trial.
6. The BLAPL is accordingly disposed of.
- Issue urgent certified copy as per rules.

*(D. Dash),
Judge.*