

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.4812 of 2021

Girish Chandra Sahu

.... ***Petitioner***
Mr.Ashok Das, Advocate

Versus

State of Odisha

.... ***Opp. Party***
Mr.S.S.Pradhan, AGA

CORAM:
JUSTICE SAVITRI RATHO
ORDER
17.02.2022

Order No.
03.

This matter is taken up by hybrid mode.

Heard Mr.Ashok Das, learned counsel for the petitioner and Mr.S.S.Pradhan, learned Addl. Government Advocate.

This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner-Girish Chandra Sahu in connection with Digapahandi P.S. Case No.50 of 2017 corresponding to G.R. Case No.08 of 2017 (N) pending in the Court of learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur for commission of offences punishable under Section 20 (b) (ii) (c) of the N.D.P.S. Act.

The bail application of the petitioner was earlier rejected on 07.06.2021 by the learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur Cuttack in G.R. Case No.08/2017 (N).

The case of the prosecution is that on 22.3.2017 while the informant and his staff were performing night patrolling duty, the informant noticed one Max pick up coming from Mohana side. They signaled the vehicle to stop but the vehicle did not stop but increased its speed. So, they chased and detained it at a distance of about 2 K.M. from Punjikayan Chhaka. The driver and occupant managed to escape in the dark leaving the vehicle. On suspicion,

the informant searched the vehicle and found two numbers of gunny bags in the dalla with smell of ganja coming from them. On weighment, 10.445 kg ganja was found in one bag and 9.765 kg of ganja in the second bag. In total 20.210 Kg of ganja was found from the aforesaid gunny bags.

Mr. Das, learned counsel for the petitioner submits that nothing incriminating has been seized from the petitioner or the co-accused. Only because the vehicle has been registered in his name, he has been arrested after four years of the date of occurrence. He further submits that in view of the quantity of ganja allegedly seized and which consisted of fruiting and flowering tops, there is margin for error and the possibility of mistake in weighment cannot be ruled out, bringing its weight less than 20 Kgs. for which Section-37 of the N.D.P.S. Act will not be attracted. He further submits that the petitioner does not have any criminal antecedents and he is in custody since 17.4.2021.

Mr. S.S.Pradhan, learned Addl. Government Advocate opposes the prayer for bail stating that though the weight of ganja may be around 20 Kgs but the petitioner has been avoiding arrest since 2017 and if he is released on bail he will not cooperate with the trial.

Considering the nature of materials collected by the prosecution and the quantity of ganja seized and the circumstances in which the ganja was seized, possibility of error in weighment and as the petitioner has no criminal antecedents, I am of the view that Section 37 of the N.D.P.S. Act will not be attracted and am therefore inclined to release the petitioner on bail.

Let the petitioner- Girish Chandra Sahu be released on bail on such terms and conditions as may be fixed by the learned Court

below in seisin over the matter in the aforesaid case, including the conditions that:-

(i) The petitioner will not tamper with prosecution evidence or threaten or attempt to influence any witnesses.

(ii) The petitioner will not indulge in any criminal activity while on bail.

(iii) He will appear in the trial court on each date fixed for trial.

The observations in this order should not influence the trial court as a prima facie view while considering the prayer of bail.

The BLAPL is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.

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(Savitri Ratho)
Judge

Bichi