

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5775 of 2022

Akash Saini

....

Petitioner

M/s. A.N.Pattanaik, Advocate

-versus-

State of Orissa

....

Opp. Party

M/s.M.Mishra, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

03.11.2022

Order No.

- 05.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Jeypore/Koraput(GRPS Koraput) P.S. Case No.04 of 2022 under GRP Rourkela corresponding to T.R. Case No.26 of 2022 pending in the Court of learned Additional Sessions Judge-cum-Special Judge, Koraput for commission of offence punishable U/Ss. 20(b)(ii)(C) of the N.D.P.S. Act on the allegation of possessing 22 Kgs. of contraband Ganja along with another co-accused.
 3. In the course of hearing of the bail application, Mr.Ananta Narayan Pattanayak, learned counsel for the petitioner submits that although the Police has shown the petitioner to have committed an offence U/S. 20(b)(ii)(C) of the N.D.P.S. Act but in reality the Police has over zealously implicated the petitioner in this case. It is further submitted that if the allegations on record are considered to be true, the petitioner having allegedly found in possession of 13 Kgs. of contraband Ganja, compliance of Section 37 of N.D.P.S. Act

is not attracted but the police in order to defeat the personal liberty of the petitioner has shown him to have possessed 22 Kgs. of contraband Ganja along with co-accused. It is further submitted that the petitioner having detained in custody since 10.02.2022 and trial having not commenced till today, the petitioner may kindly be released on bail on any condition as deems fit and proper.

4. On the other hand, learned counsel for the State submits that although the petitioner and another person were found to have carried different quantity of contraband Ganja by sitting on two separate benches in the Railway Station but in reality, both having acted in active connivance were carrying contraband Ganja to the tune of 22 Kgs., therefore, the provision of Section 37 of N.D.P.S. Act is squarely applicable against the petitioner and co-accused but they having not satisfied the twin conditions of Section 37 of N.D.P.S. Act, the bail application of the petitioner, therefore, may kindly be rejected.

5. Considering the rival submissions made, the seizure list indicating seizure of 13 Kgs. contraband Ganja from the petitioner and taking into consideration the submission of charge sheet as also the period of detention of the petitioner in custody since 10.02.2022 and the manner and circumstance of seizure of alleged contraband Ganja and the object of bail being not punitive, rather protecting the individual liberty and regard being had to the quantity of Ganja number of accused persons involved in this case, this Court considers it proper to grant bail to the petitioner.

6. Hence, the prayer for bail of the petitioner is allowed

and the Petitioner be released on bail on furnishing bail bonds of Rs.25,000/- with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall not commit similar type of offence while on bail and that the petitioner shall not leave the jurisdiction of the trial Court without prior permission till conclusion of the trial and that the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with and that the petitioner shall also attend the jurisdictional police station once in a month preferably on second Saturday for three months from the date of release from jail.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

Kishore

(G. Satapathy)
Judge