

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5182 of 2021

Satya Narayan Yadav

.... ***Petitioner***
M/s.R.Padhi, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.S.R.Roul, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

13.10.2022

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 Koraput Town P.S. Case No.74 of 2021 corresponding to T.R. Case No.31 of 2021 pending in the Court of learned Addl. Sessions Judge-cum-Special Judge, Koraput for commission of offence punishable U/Ss. 20(b)(ii)(C) and 29 of NDPS Act on the allegation of transporting 1691 Kgs. 900grams of contraband Ganja in a truck bearing Registration No. BR-44-GA-0374.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner is no way connected with transportation of contraband Ganja as he was not aware of any contraband Ganja being loaded in the truck and he was a stop gap driver of the said vehicle. It is also submitted that since the truck was fully loaded with Ginger, the concealment of contraband Ganja in the truck was not within the knowledge of the petitioner and the petitioner being a young boy of 25 years is languishing inside jail custody without any fault. It is also submitted by learned counsel for the petitioner that a number of co-accused persons have already been granted bail in this case and those co-accused who were apprehended from the spot have

also been granted bail by this Court. On the above grounds, learned counsel for the petitioner prays to grant bail to the petitioner.

4. On contrary, learned counsel for the State submits that since the petitioner having prima facie found to have carried contraband Ganja consciously in the truck, he cannot be said to have no knowledge about the transportation of Ganja in the truck and the petitioner having apprehended by the police while transporting contraband Ganja to the tune of 1691 Kgs. 900grams should not be granted bail.

5. After having considered the rival submissions upon reference to the allegations on record, it appears that the petitioner was allegedly apprehended by the police while driving the truck carrying contraband Ganja to the tune of 1691 Kgs. 900grams. It is no doubt true that some of the co-accused persons have been granted bail by this Court but in view of the law laid down by Apex Court in *State of Kerala Vrs. Rajesh and another; (2020) 78 OCR (SC) 65* principle of parity cannot be extended to the petitioner in as much as the orders granting bail to co-accused persons have been passed without reference to Section 37(1)(b)(ii) of the N.D.P.S. Act which postulates mandatory requirement of fulfillment of twin conditions that there are reasonable grounds for believing that the accused is not guilty of such offence and he is likely to commit any offence while on bail.

6. Considering the nature and gravity of offence and the manner of commission of the alleged crime as well as the quantity of contraband Ganja involved in this case to the tune of 1691 Kgs. 900grams as alleged and taking into consideration the mandate of Section 37 of the N.D.P.S. Act and the law laid down by the Apex Court in *Rajesh(supra)* as well as in *Narcotics Control Bureau Vrs. Mohit Agarwal; 2022 SCC Online SC 891*, this Court is not inclined to grant bail to the petitioner. Accordingly, the prayer for bail of the petitioner stands rejected.

7. Trial be expedited in this case as submitted by learned counsel

for the petitioner and the learned Court in seisin of the case should do well to dispose of the case as expeditiously as possible preferably within a period of six months from the date of receipt of the copy of this order. Needless to say that the petitioner is at liberty to renew his prayer for bail if the trial is not concluded as aforesaid, but in that event the bail application of the petitioner shall be considered in accordance with law.

8. Accordingly, the BLAPL stands disposed of.

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

Kishore

