

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5367 of 2021

Ajaya Jira

..... Petitioner

Mr. Manoranjan Mishra, Advocate

-versus-

State of Odisha

..... Opposite Party

Mr. S.K. Nayak, AGA

**CORAM:
MR. JUSTICE D.DASH**

**ORDER
28.09.2022**

Order No.

01. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
2. The petitioner being in custody in connection with Machhkund P.S. Case No.64 of 2020 corresponding to T.R. Case No.39 of 2020 pending in the Court of the learned Additional Sessions Judge-cum-Special Judge, Koraput for offence punishable under sections 20(b)(ii)(C)/25 & 29 of the N.D.P.S. Act has filed this application under section 439, Cr.P.C. for his release on bail.
3. Learned counsel for the Petitioner submits that the prosecution case stands to the effect that one Swift Dzire vehicle wherein few persons were sitting as passengers and one was on driver's seat being intercepted was found to be carrying ganja of 163 kg 700 grams in eight bags. He further submits that after that one Scorpio vehicle having reached at the spot the same being detained, it is said that 30 kg 200 grams of ganja were found in two bags and this Petitioner being found inside that Scorpio vehicle has been arraigned in the case with the allegation that

they were transporting the total quantity of ganja said to have been recovered from both the vehicles. It is his submission that this Petitioner being innocent passengers in the said Scorpio vehicle has been unnecessarily arraigned in the case when it was being driven by accused Arakhita Reddy. In view of all these above, he urges for grant of bail to this Petitioner as in the facts and circumstances of the case, according to him, the bar under section 37 of the N.D.P.S. Act would stand on the way of grant of bail more so when he has no criminal antecedent. It is also his submission that there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence.

4. Learned counsel for the State opposes the move in view of the quantity of the contraband involved in the case. He, however, under instruction submits that the Petitioner has no such criminal antecedents. According to him when the Petitioner was sitting in the vehicle as passengers, it is too early a stage to say that he had no knowledge about the contents of those bags and their keeping.

5. Taking into account the submissions made and on going through the materials on records as those stand against the Petitioner as also the quantity of contraband ganja said to have been seized; further keeping in view the surrounding circumstances including the period of detention of the Petitioner in custody; it is directed that the petitioner be released on bail in the aforesaid case with such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that:-

- (i) he will appear in person before the court in seisin of the case on each date of posting of the case till conclusion of the trial:
and
- (ii) will not indulge himself in commission of similar type of offence.

Violation of any of the above condition(s) shall entail cancellation of bail.

6. The BLAPL is accordingly disposed of.
7. Issue urgent certified copy as per rules.

(D. Dash)
Judge



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