

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6323 of 2022

Rahul Kumar Pandey

....

Petitioner

Mr. Panchanan Panigrahi, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. S.Mishra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

27.09.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the Petitioner and learned Additional Standing Counsel.

3. This is an application under Section 439 of the Criminal Procedure Code.

4. The Petitioner is an accused in T.R.Case No.23 of 2021 arising out of Kashipur P.S. Case No.93 of 2021 pending in the court of learned Sessions Judge-cum-Special Judge, Rayagada for commission of offence punishable under Sections 20(b)(ii)(C)/29 of the N.D.P.S. Act.

5. The prosecution case, in brief, is that on 03.09.2021 as per the direction, the informant along with other staff proceeded to the spot and found Hoonda City Car and seized the contraband articles and drew the F.I.R. and proceeded with the case.

6. It is submitted by learned counsel for the petitioner that the Petitioner is languishing in custody since 04.09.2021. He further

submits that the investigation has been concluded and charge sheet has been filed. It is also submitted that trial has also commenced and out of 17 witnesses four witnesses have been examined so far. On careful examination of the prosecution case, it appears that the Petitioner was travelling along with another in the vehicle which was stopped and searched by the Police from which contraband ganja weighing 76 kg. were recovered from the dicky of Hoonda City.

7. Learned Additional Standing Counsel on the other hand opposes the release of the Petitioner on bail on the ground that the Petitioner was arrested on the spot. He further submits that such types of crime are rampant in the State and no leniency should be shown to the petitioner or similarly situated persons. Accordingly, learned Additional Standing Counsel prays for rejection of the bail application of the Petitioner.

On the other hand, learned counsel for the Petitioner submits that the Petitioner is innocent and he has no idea that contraband articles were kept in the vehicle. He further submits that the Petitioner does not have criminal antecedent of similar nature and they have undergone imprisonment for more than one month.

8. Having heard learned counsel for the parties and considering the fact that trial is not likely to be concluded in near future, the Petitioner is directed to be released on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter. Out of two sureties, one shall be of the relation of the Petitioner. Further in addition to the same, the Petitioner shall also furnish a cash security of Rs.50,000/- (Rupees Fifty thousand) before the Court in seisin over the matter. subject

to following conditions that :-

- i) He shall not involve himself in any other offence during the period of bail.
- ii) He shall appear before the trial court on each and every date as fixed by the Court.
- iii) He shall not tamper with the prosecution evidence.
- iv) He shall not influence or threaten any prosecution witness and cooperate with the investigation.
- v) He shall provide his present address and mobile number to the I.O. and if any changes therein shall also be intimated to the I.O.
- vi) He shall not leave the jurisdiction of the court without special permission from the court; and
- vii) Violation of any of the conditions shall entail cancellation of bail.

9. It is further directed that the bail granted to the Petitioner is subject to the condition that learned court below shall verify whether the Petitioner has any criminal antecedents of similar nature. In the event it is found that the Petitioner has any criminal antecedents of similar nature, this bail order shall automatically stand revoked.

10. The Bail Application is accordingly disposed of.

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

(A.K. Mohapatra)
Judge