

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5524 of 2021

Nanda Kumar Kushwaha

..... Petitioner
Mr. S.K. Nayak, Advocate

-versus-

State of Orissa

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

CORAM:
JUSTICE G. SATAPATHY

Order No.

ORDER
23.11.2022

12. 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 Sadar P.S. Case No.245 of 2020 arising out of T.R. Case No.97 of 2020 pending in the Court of learned District Sessions Judge-Cum-Special Judge, Koraput, Jeypore for commission of offences punishable under Sections 20(b)(ii)(c) of N.D.P.S. Act, on the allegation of transporting 41Kgs. 900Grams of contraband Ganja in a Maruti Car UP-70HT-4579.
3. In the course of hearing of the bail application, Mr. S.K. Nayak, learned counsel for the petitioner submits that the petitioner is inside the custody since last two years and he has been falsely implicated in this case, but charge has already been framed in this case and five out of eighteen charge-sheeted witnesses have already been examined in this case and there is hardly any material evidence against the petitioner. On the aforesaid submission, learned counsel

for the petitioner prays to enlarge the petitioner on bail.

4. On the contrary, learned counsel for the State submits that the quantity of contraband Ganja seized in this case being the commercial quantity, the petitioner cannot be released on bail unless the mandatory provision of Section 37 of N.D.P.S. Act is fulfilled by the petitioner. It is accordingly prayed by him to reject the bail application of the petitioner.

5. Considering the rival submissions made, nature and gravity of accusations raised against the petitioner as also the gravity of offence alleged, the quantity of Ganja allegedly recovered from the Car in which the petitioner was an occupant and regard being had to the fact that when the learned counsel for the State has opposed the release of the petitioner on bail, this Court considers it impossible on conspectus of materials on record at this stage of the case to record satisfaction that there are reasonable grounds for believing that the accused is not guilty of such offence involving commercial quantity of contraband Ganja and he is unlikely to commit offence while on bail, this Court, therefore, does not feel it proper to grant bail to the petitioner.

6. Hence, the prayer for bail of the petitioner stands rejected. Trial be expedited as requested by learned counsel for the petitioner.

7. Accordingly, the BLAPL stands disposed of.

8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge