

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7281 of 2019

Bhubaneswar Kanhar

....

Petitioner

Mr.B.R.Tripathy, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K.Mohanty,ASC

CORAM:

THE JUSTICE S. K. PANIGRAHI

Order No.

ORDER

11.01.2022

10.

1. This matter is taken up through virtual/physical mode.
2. The petitioner being in custody in connection with C.T. Case No. 28 of 2019 arising out of Gochhapada P.S. Case No. 36 of 2019 pending in the Court of learned District & Sessions Judge-cum-Special Judge, Kandhamal, Phulbani for commission of offences under Sections 20(b)(ii)(C) of the N.D.P.S. Act, has filed this application under Section 439 of CrPC for his release on bail.
3. The case of the prosecution, in brief, is that on 03.07.2017 at about 5.30 A.M. while the informant along with his staff were performing patrolling duty, they received information about the transportation of huge quantity of contraband 'ganja' by some people. Pursuant to the said, they proceeded to the spot i.e. Mundasahi Nala. They found that the present petitioner and the co-accused were sitting on two huge plastic poly bags and another bag was kept beside them. On seeing the raiding party, they tried

to escape but failed. On searching of the plastic bags, 130 Kgs 115 grams of ganja was recovered and seized from their conscious possession. Thereafter, they were arrested and forwarded to the court.

4. Learned counsel for the petitioner submits that the petitioner has been languishing in custody since 3rd July, 2019 without trial. It is further submitted that a co-accused who is similarly situated with the petitioner has already been released on bail vide order of this Court in BLAPL No.1895 of 2020. Moreover, the petitioner has already served a sentence period for over a year, yet the trial has not yet commenced.

5. Learned counsel for the State though opposed the bail application but conceded the factum of release of co-accused without trial being commenced.

6. Considering the submissions made, factum of release of co-accused on bail as well as period of detention without trial, it is directed that the petitioner be released on bail in the aforesaid case on some stringent terms and conditions as deemed just and proper by the learned court in seisin over the matter with further conditions that:-

- i. the petitioner shall appear before the learned trial court on each date of posting of the case;
- ii. he shall not engage in such activities in future and
- iii. he shall not tamper with the evidence of the prosecution witnesses in any manner.

7. Violation of any of the conditions shall entail cancellation of the bail.

8. The BLAPL is accordingly disposed of.

9. As the restrictions due to resurgence of Covid-19 are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the Advocate concerned with his/her seal, in the manner prescribed vide Court's Office Order dated 7th January, 2022.

(S. K. Panigrahi)
Judge



LB