

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6091 of 2021

Mahipal Singh

.... ***Petitioner***
Mr.S.R.Mohapatra, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. M.K.Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

28.02.2022

Order No.

06.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as the learned Additional Standing Counsel for the State.
3. Perused the F.I.R., Case Diary as well as the statements of the witnesses recorded during the course of investigation.
4. This is an application under Section 439 of the Criminal Procedure Code filed by the Petitioner to release him on regular bail in connection with T.R. No.100 of 2020 pending in the Court of the learned Sessions Judge-cum-Special Judge, Koraput-Jeypore, which arises out of Jeypore Sadar P.S.Case No.250 of 2020 for commission of the alleged offence under Section 21(b)(ii)(C) of N.D.P.S.Act..
5. The Prosecution case, as revealed from the F.I.R., in short is that on receiving credible information regarding transportation of contraband ganja, the I.I.C., Jeypore Sadar Police Station on 26.12.2020 directed the S.I. of Police along with other staff to proceed to the spot. On arrival at the spot, the informant and his staff found the

vehicles stranded there and they could able to catch hold the three occupants of the vehicles and other occupants escaped from the spot. It is also revealed from the F.I.R that after following due procedure of law, 325 kg. 900 grams of ganja was seized from the possession of the present Petitioner and two others. The alleged vehicles were also seized by the Police. After observing all the formalities, the informant arrested the Petitioner and two others.

6. Learned counsel for the Petitioner submits that the Petitioner is in custody since 26.12.2020. He further submits that the investigation of the case is over and charge sheet has been filed. Although the Petitioner was waiting for trial, but the trial is not taking place. It is also submitted by the learned counsel for the Petitioner that the Petitioner was standing near the vehicle from which the contraband ganja was seized. Further, it is submitted that the Petitioner has no nexus either with the vehicle or the owner of the vehicle and he is no way linked with the contraband articles which was seized from that stranded vehicles. In such view of the matter, learned counsel for the Petitioner further submits that the bar under Section 37 of the Act is not attracted as the contraband articles were not seized from the conscious and exclusive possession of the Petitioner as he was not inside the vehicle nor the vehicle stands recorded in his name.

7. Learned counsel for the State on the other hand submits that the quantity of ganja was seized is more than commercial quantity and such type of offence are rising everyday in the State of Odisha and as such type of offenders should be detained and no leniency should be shown to anybody involved in such type of offence. Accordingly, he prays for rejection of the bail application of the Petitioner.

8. Having heard learned counsel for the parties and considering the nature and gravity of the allegation as well as the custodial detention of the Petitioner and further upon consideration of the fact that the

Petitioner was arrested from a nearby place where the vehicle was standing, this court is inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.1,00,000/- (Rupees one lakh) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions

- i) he shall appear before the concerned Police Station once in a week preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.
- ii) shall cooperate with the trial of the case and shall appear in court on each and every date to which the case is posted.
- iii) shall not indulge in any offence of similar nature
- iv) shall not leave the jurisdiction of the trial court with specific permission of the trial court till conclusion of the trial and shall keep the Police Station informed regarding change of address and mobile number.
- v) Violation of any of the terms and 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 stands revoked.

9. The Bail Application is accordingly disposed of.

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

