

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6200 of 2021

Suratha Behera

....

Petitioner

Mr. Deba Kumar Rath, Advocate

-versus-

The State of Odisha

....

Opposite Party

Mr. K.K. Nayak, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

20.04.2022

Order No.

04. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with P.R. No.93 of 2020-21, corresponding to T.R. Case No.169 of 2021, pending in the court of learned Sessions Judge, Khurda at Bhubaneswar, for commission of alleged offences under Sections 20(b)(ii)(C) of N.D.P.S. Act, 1985.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.
4. The prosecution case, in a nutshell, is that on 27.03.2021 at about 4.20 A.M., while on patrolling with excise officers and employees in her official vehicle in Khandagiri police area,

received information from confidential source that one TATA Act bearing Regd. No.OD-02-BM-6376 driven by a male and two female are carrying a huge amount of cannabis and moving towards Bhubaneswar from Khordha. Accordingly, the complainant complied Section 42(1) of NDPS Act by recording the information and 42(2) of NDPS Act by passing over it with the accompanying Inspector at Patrapada square. The vehicle was intercepted at 5.35 AM at D.N. Square, Kalinga Vihar and found present Petitioner was driving the vehicle and one polythene bag was kept on his side seat. Two other accused persons, namely, Mamata Digal and Sabita Digal were also sitting in the vehicle with another polythene bag on trolley (cargo space). After all formality, they were forwarded to the learned trial court.

5. Learned counsel for the Petitioner submits that Petitioner is languishing in jail custody since the date of his arrest, i.e. 27.03.2021. It is submitted that the Petitioner is the daily wager and living his livelihood by vending vegetables in the streets. It is submitted that he is an innocent person and falsely entangled in the case. While the Petitioner was waiting along with the driver for arrival of the labourers in the outskirt of Krushnapali village, the Excise team arrested the present Petitioner along with two other women who were in the TATA Ace along with the contraband Ganja. The said two women confess that they were trafficking Ganja. It is further submitted that no incriminating materials available in the case record to made out

a prima facie case against the Petitioner. The further submission is that since he is a permanent resident of the locality, there is no chance of evading the trial of the case in the event of his release.

6. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner. He, however, submits that in the event of release, stringent conditions may be imposed on the accused person.

7. Having regard to the facts and circumstances of the case, considering the nature and gravity of offences alleged and the period of detention of the Petitioner, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

i) He shall not involve himself in any similar nature of offence particularly involving the offence under the NDPS Act;

(ii) He shall appear before the trial court on each and every date as fixed by the court;

(iii) He shall appear before the I.O. on every fortnight of the month, preferably on Sunday at 10 A.M. to 1.00 P.M. and report to the police, till conclusion of trial;

(iv) He shall not tamper with the prosecution evidence;

(v) He shall not influence or threaten any prosecution witness and cooperate in the investigation;

(vi) 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.;

(vii) He shall not leave the jurisdiction of the court without special permission from the court; and

(viii) Violation of any of the above conditions shall entail cancellation of the bail.

8. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

9. With the above direction, the BLAPL is accordingly allowed.

10. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge