

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6321 of 2021

Pradeep Kumar Behera

.... 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

04.05.2022

Order No.

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1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel.
3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with Tikabali P.S.Case No.57 of 2020 corresponding to C.T. Case No.50 of 2020 pending in the Court of the learned Special Judge-cum-Additional District & Sessions Judge, Baliguda for alleged commission of offence under Sections 20 (b) (ii) C of the N.D.P.S.Act.
4. The Prosecution case in brief is that on 19.09.2020 at about 10.45 P.M. the informant got information that two persons were transporting ganja in their Renault Duster car bearing Regd.No.OD-05-F-9527 from Puburia towards Cuttack. It is alleged that at about

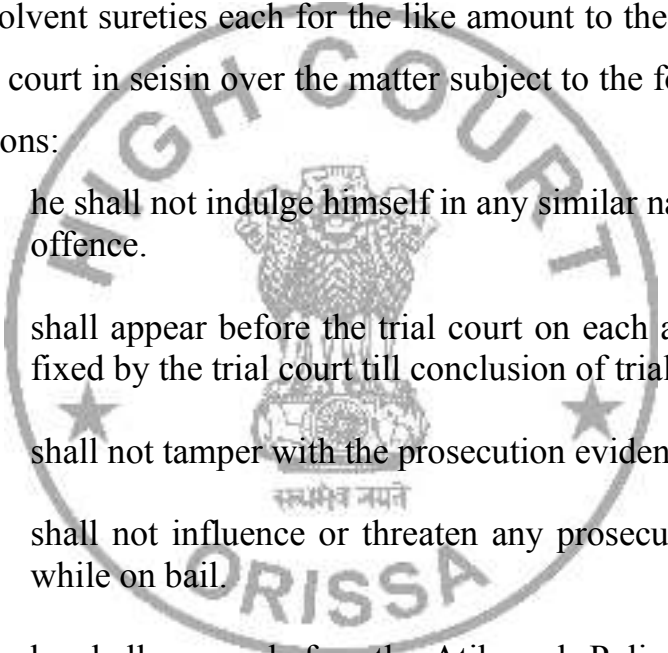
1.30 P.M. the informant found a car was coming in high speed and she gave signal to stop the vehicle. The Petitioner stopped the car near Tengelepathar Chhak. On being asked the Petitioner, who was driving the car disclosed his name and identity. The informant searched the car and found four number of plastic bags containing ganja were kept on the back side seat of the car. After arrival of the Magistrate search was conducted after observing all the formalities and 89 kg.680 grams of ganja was seized excluding the bags and the Petitioner was arrested.

5. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in custody since 20.09.2020, Further he submits that the investigation has been concluded in the meantime and charge sheet has been filed keeping the investigation open under section 173(8) Cr.P.C. It is further submitted by the learned counsel for the Petitioner that the trial has not commenced and the Petitioner is languishing for more than one and half years. Learned counsel for the Petitioner submits that the Petitioner is a poor driver and on the instruction of the owner of the vehicle he was driving the vehicle.. Since persons were in the vehicle however the person to whom contraband ganja belong, got down on the way and the Petitioner was driving the vehicle while the Police intercepted him. He further submits that the Petitioner has no criminal antecedents of similar nature and that he belongs to the locality. It is further submitted by the learned counsel for the Petitioner that since the Petitioner is a permanent inhabitant of Cuttack district, there is no chance of absconding or fleeing from receiving justice and in the event of his release, he will appear before the trial court on each date of posting of the case.

6. Learned Additional Standing Counsel vehemently opposes

the prayer for bail of the Petitioner and submits that illegal trafficking of contraband articles is rising day by day and no leniency should be shown to the Petitioner or similarly situated persons. Moreover the Petitioner was apprehended at the spot.

7. Having heard learned counsel for the parties, considering the fact and circumstances of the case and the period of custodial detention of the Petitioner and keeping in view the fact that trial has not commenced, I am 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.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 subject to the following terms and conditions:

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- i) he shall not indulge himself in any similar nature of offence.
 - ii) shall appear before the trial court on each and every date fixed by the trial court till conclusion of trial.
 - iii) shall not tamper with the prosecution evidence.
 - iv) shall not influence or threaten any prosecution witnesses while on bail.
 - v) he shall appear before the Atjagarh Police Station once in a week preferably on Sunday in between 10 A.M. to 1 P.M. for one month and once in a fortnight between the said period till conclusion of trial.
 - vi) Violation of any of the terms and conditions shall entail cancellation of bail.

8. The trial court may impose any other condition(s) as deem fit and proper.

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. BLAPL is accordingly disposed of.

11. Issue urgent certified copy as per Rules.

RKS

(*A.K. Mohapatra*)
Judge

