

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6348 of 2021

Chhathu Ram

.... ***Petitioner***
M/s.A.P.Bose, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.S.R.Roul, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

13.10.2022

Order No.

06. 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 Machhakund P.S. Case No.6 of 2021 corresponding to T.R. Case No.10 of 2021 pending in the Court of learned Addl. District & Sessions Judge-cum-Special Judge, Koraput for commission of offence punishable U/Ss. 20(b)(ii)(C) of NDPS Act on the allegation of transporting 134 Kgs. 600grams of contraband Ganja in a Bolero vehicle.

3. In the course of hearing of the bail application, learned counsel for the petitioner very fairly submits that the petitioner was alleged to have been transporting contraband Ganja of commercial quantity but there is hardly any materials to establish such allegation against the petitioner and the petitioner being a poor driver was not aware of any contraband Ganja being transported in the Bolero vehicle. It is further submitted that the petitioner is inside jail custody since 14.01.2021 but trial has not yet commenced, even charge has not been framed in this case and the petitioner has a right to fair and speedy trial as guaranteed under Constitution and the long delay in holding the trial impedes such right's of the petitioner. It is also submitted that the petitioner is a law

abiding citizen and he is ready and willing to abide by any stringent condition to be imposed on him for his release on bail. On the above submissions, learned counsel for the petitioner prays to enlarge the petitioner on bail.

4. As against these submissions, learned counsel for the State submits that the quantity of contraband Ganja recovered from the possession of the petitioner is definitely coming under commercial quantity and Section 37 of the N.D.P.S. Act creates an embargo for release of the petitioner on bail. In summing of his argument, learned counsel for the State prays to reject the bail application of the petitioner.

5. After having considered the rival submissions upon reference to the allegations on record, it appears that the petitioner was allegedly apprehended while driving a unnumbered Bolero vehicle in which 134 Kgs. 600grams of contraband Ganja was found and the investigating agency accordingly seized the aforesaid contraband Ganja which is coming under commercial quantity and Section 37(1)(b)(ii) of the N.D.P.S. Act puts an embargo for release of persons accused of offences involving commercial quantity on bail. It is no doubt advanced on behalf of the petitioner that the length of the period in custody of the petitioner pending trial impedes his right but in view of the law laid down by the apex Court in *Narcotics Control Bureau Vrs. Mohit Agarwal; 2022 SCC Online SC 891* such ground cannot be treated as persuasive grounds for granting bail to the petitioner who is accused of offences involving commercial quantity of contraband Ganja.

6. In view of the above facts and taking into consideration the nature and gravity of offence and keeping in view the mandate of Section 37 of the N.D.P.S. Act and the law laid down by the Apex Court in *Mohit Agarwal(supra)* as well as *State of Kerala Vrs. Rajesh and another; (2020)78 OCR (SC) 65*, this Court is not inclined to grant

bail to the petitioner. Accordingly, the prayer for bail of the petitioner stands rejected.

7. Trial be expedited in view of the submissions advanced on behalf of the petitioner and the learned trial Court is requested to do well to dispose of the case as expeditiously as possible preferably within six months of receipt of copy of this order and in case the trial is not concluded within the aforesaid period, the petitioner may renew his prayer for bail.

8. Accordingly, the BLAPL stands disposed of.

9. Urgent certified copy of the order be granted on proper application.

Kishore

