

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.9562 of 2022

Pravanjan Kanhar

....

Petitioner

Mr. N.K. Lenka, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

11.08.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.
3. This is an application under Section 438, Cr.P.C. filed by the petitioner for anticipatory bail.
4. The petitioner is seeking pre-arrest bail in connection with C.T. Case No.111 of 2022, arising out of Firingia P.S. Case No.111 of 2022 for commission of offences punishable under Sections 20(b)(ii)(C)/25/29 of N.D.P.S. Act.
5. The brief case of the prosecution is that dated 21.07.2022 at about 11.30 A.M. the informant received an information from reliable sources that two persons, namely, Pravanjan Kanhar owner of the Bolero Pick Up van bearing Registration No.OD-33-AD-1361, who engaged driver Ranjit Digal are in possession contraband ganja was being transported by means of aforesaid vehicle and they are likely to pass through on SH-1 Road near village Balkidadi under Bandhagada

G.P., thereafter the informant his police staffs were waited at the spot when the said vehicle is coming from Manipadar side, after seeing the he signaled his raiding party members come over the road and stopped the vehicle there. But one person, who was sitting the side of the driver, was fled away from the spot. All the raiding party members come over the road and able to detain the said pickup van as well as the suspect. Therefore, two male persons including the driver are sitting inside the vehicle. But out of them one is fled away from the said vehicle from the spot on being asked to driver he disclosed his name and identity as Ranjit Digal, the police party noticed that there was two numbers of plastic bags found loaded back side of the dala of the said van and the occupants of the driver from the vehicle and got down huge bags. Then the informant and his police staff are seized two numbers of plastic bags containing contraband band ganja 67 Kgs. each bag containing 33 Kgs 500 grams and weight of tal ganja 66 Kgs.400 grams, thereafter the informant observing made all formalities of NDPS Act and arrested the driver and forwarded to the court.

6. It is submitted by the learned counsel for the petitioner that the petitioner is an innocent person having no nexus with the alleged commission of offence and no prima facie case is made out against the petitioner to rope him in the present case. It is also submitted by the learned counsel for the petitioner that the petitioner has not been named in the FIR and on the basis of the confessional statement of co-accused person he has been implicated in the present case. The allegations made in the FIR are omnibus in nature. It is further contended by learned counsel for the petitioner that no contraband article was seized from the exclusive and conscious possession of the present petitioner. Since the petitioner is a permanent resident of his village, there is no chance of his absconding. Lastly, learned counsel for the petitioner submits that the entire prosecution case is false, baseless and concocted and has

been foisted with mala fide intention. The petitioner undertakes not to temper with the prosecution evidence not to make any attempt to threaten the witnesses, in the event he is released on anticipatory bail. Further, learned counsel for the petitioner relies on the judgment delivered by the Hon'ble Supreme Court of India in the case of ***Tofan Singh vrs. State of TamilNadu*** : reported in (2021) 4 SCCI and order dated 10.01.2022 in the matter of ***State By (NCB) Bengaluru vrs. Pallulabid Ahmad Arimuta and another (Special Leave to Appeal (Criminal) No.242 of 2022)***.

7. Learned Additional Standing Counsel on the other hand opposes the prayer for anticipatory bail of the petitioner and submits that a clear case is made out against the petitioner under the N.D.P.S. Act. He further submits that the trafficking of contraband substances are on the rising in the Phulbani district of the State of Odisha. Therefore, no leniency should be shown to the petitioner.

8. Considering the nature of allegations and gravity of offence and the fact of the case and the fact that the petitioner has been implicated in this case under the provision of N.D.P.S. Act, I am not inclined to grant anticipatory bail to the petitioner. However, it is observed that, in the event the petitioner surrenders before the learned court in seisin over the matter within three weeks from today. The Court in seisin over the matter shall consider the same and dispose of the bail application of the petitioner on the very same day. Keeping in view the judgment delivered by the Hon'ble Supreme Court of India in the case of ***Tofan Singh vrs. State of TamilNadu*** : reported in (2021) 4 SCCI and order dated 10.01.2022 in the matter of ***State By (NCB) Bengaluru vrs. Pallulabid Ahmad Arimuta and another (Special Leave to Appeal (Criminal) No.242 of 2022)***. Further, it is directed that the Case Diary shall be made available to the concerned court to facilitate disposal of

the bail application of the petitioner.

9. Accordingly, the ABLAPL is disposed of.

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

(A.K. Mohapatra)
Judge

Jagabandhu

