

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6854 of 2021

Arjun Behera and another

Petitioners
Mr. P.K. Rath, 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.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners as well as learned counsel for the State. Perused the F.I.R., case diary, statement of the witnesses and other relevant documents on record.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioners are accused in G.R. Case No.477 of 2021 arising out of Belpada P.S. Case No.123 of 2021 pending in the court of learned S.D.J.M., Patnagarh for commission of offence punishable under Sections 272/274/275/120-B, I.P.C.
5. The prosecution allegation in brief is that on 03.06.2021 at about 5.00 P.M. while the informant Kiran Jani, S.I. of Police of Belpada P.S. along with his staffs were performing evening patrolling duty, in the village area under Belpada P.S. at 5.30 P.M., he received information about transportation of Eskuf cough syrup from Kapanito Patnagarh in a Mahindra TUV-300 + white colour

bearing Registration No.OD-03-R-5325. On getting such information, he along with the patrolling party, after arranging two independent witnesses, rushed towards Mandal Chhak. There, they stopped the Mahindra Vehicle and that the Petitioners seeing the police started running, but the police party could apprehend the Petitioners. On checking the vehicle, the S.I. of Police (informant) 8 nos. of cartoon each containing 160 nos. of Eskuf Cough syrup bottles, another cartoon containing 60 nos. of Eskuf Cough syrup, 5 nos. of Eskuf cough syrup each containing, approximately 50 ML. having written on its label, codeine phosphate clorophoromine meleate, one strip of Anjolam 9.5 MG. tablet from it and seized the recovered articles and the vehicle, from the Petitioners. On demand, the Petitioners could not produce any document regarding transportation and sale of the Eskuf cough syrup and tablets. The Petitioners had procured the above cough syrup from Cuttack and they are managing their business by selling the cough syrup by mixing the Anjolam 0.5 tablet with it along with water for more intoxication, to the addicted persons for more gain.

6. It is submitted by learned counsel for the Petitioners that the Petitioners are driver and owner of the vehicle and the vehicle has been hired by two other persons for transportation of some medicines. When the vehicle was intercepted by the police, two persons, namely, Nila Meher and Nitya Meher, who have fled away from the spot who were illegally transporting medicines. The present Petitioners were not aware about the status of those medicines. They did not run away from the spot. Accordingly, they were arrested at the spot. He further submits that the Petitioners are in custody since 01.07.2021 and they belong to local area and that there is no scope for absconding or fleeing away from the hands of justice. On such

ground, learned counsel for the Petitioners prays for consideration of the bail application of the Petitioners.

7. Mr. Mohanty, learned Additional Standing Counsel for the State vehemently opposes the prayer for bail of the Petitioners and submits that transportation of medicines are increasing day-by-day and no leniency should be shown to the offenders and that their bail application may be rejected.

8. Having heard learned counsel for the parties, considering the nature and gravity of offence as well as role of the petitioner and keeping in view the period of custodial detention of the Petitioners, I am inclined to release the Petitioners on bail.

9. Let the Petitioners be released on bail in the aforesaid case on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) each with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter subject to following the conditions:-

- I. Petitioners shall not be involved in any offence of similar nature,
- II. They shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever.
- III. They shall appear before the concerned Police Station once in a week preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of trial;
- IV. They shall not make any default in attending the court during trial on each date.

Violation of any of the terms and conditions shall entail

cancellation of bail.

10. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

11. The Bail Application is accordingly disposed of.

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

Jagabandhu

(A.K. Mohapatra)
Judge

