

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6953 of 2021

Sanjit Kumar

....

Petitioner

Mr. A.K. Acharya, Advocate

-versus-

State of Odisha

....

Opposite Party

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

25.02.2022

Order No.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the F.I.R., case diary and other relevant documents as well as statement of the witnesses.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in T.R. No.08 of 2021 arising out of Rayagada P.S. Case No.60 of 2021 pending in the court of learned District and Sessions Judge-cum-Special Judge, Rayagada for commission of offence punishable under Sections 20(b)(ii)(C)/29 of the N.D.P.S. Act.
5. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 08.03.2021 and investigation of the case has been completed and charge-sheet in the case has been submitted. He further submits that the Petitioner is a young man, who has married very recently and was working as a helper of the vehicle and he is in custody and that he had no knowledge about the contraband articles

were kept in the vehicle. Further he submits that the driver, in his statement, has clearly stated that on instruction of the owner of the transport company he had come to collect ginger and ganja with the knowledge of the driver the contraband articles were loaded in the vehicle and such fact was not within the knowledge of the Petitioner. However, learned counsel for the Petitioner submits that the contraband articles were not seized from the exclusive conscious possession of the Petitioner and Section 37 of the N.D.P.S. Act is not attracted to the facts of the present case and he further submits that there is no scope of absconding or fleeing away from the hands of the justice and that the Petitioner does not have any criminal antecedents of similar nature.

6. Mr. Mohanty, learned Additional Standing Counsel for the State vehemently opposes the prayer for bail of the Petitioner and submits that number of such cases are increasing day-by-day and no leniency should be shown to the Petitioner or similarly situated persons. Further, he submits that although the statement of the driver, a conspiracy was hatched with the owner of transport company and the driver for transportation of contraband ganja. The Petitioner is working as a helper and he had no not known about the conspiracy.

7. Having heard learned counsel for the parties and considering aforesaid facts and circumstances and the period of custodial detention of the Petitioner, it is directed that let the Petitioner be released on bail on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to conditions that :-

- I. the Petitioner shall not be involved in any offence of similar nature,
- II. he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in

any manner whatsoever,

- III. shall not make any default in attending the court during trial on each date without fail
- IV. and 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.

Violation of any of the terms and conditions shall entail cancellation of bail.

8. It is open for the court in seisin over the matter to impose other conditions as may be deemed just 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, this bail order shall automatically stand revoked.

10. The Bail Application is accordingly disposed of.

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

Jagabandhu

(A.K. Mohapatra)
Judge