

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7032 of 2021

Firoz @ Salman Majhi

....

Petitioner

Mr Basudev Pujari, Advocate

-versus-

State of Odisha

....

Opposite Parties

Mr. M.K. Mohanty, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

29.04.2022

Order No.

04.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Gudari P.S. Case No.38 of 2020, corresponding to T.R. No.06 of 2020, pending in the file of learned Special Judge-cum-Addl. Sessions Judge, Gunupur, for commission of alleged offences under Sections 20(b)(ii)(c) of N.D.P.S. Act.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witness.
4. The prosecution case, in brief, is that on 31.05.2020, the Informant and other staff of the Gudari police station were performing day patrolling at Bhurudi and Ladiguda area. On the same day at 4.30 P.M., the Informant received information from the reliable source that some persons are engaged in packing

and storage of contraband Ganja in a cashew nut field in the jungle. On the said information, he along with the staff rushed to the spot and found some persons who were busy in packing and storing the contraband ganja under a mango tree in piling the dense cashew nut field, seen the police team, the persons, who were engaged in and storing the contraband ganja fled away from the spot. However, the Informant managed to caught hold one person at the spot, who is the present petitioner. It is alleged that the Petitioner disclosed that he along with others were packing and storing the contraband ganja being collected from the Khairaguda and Bhurudi villages and other areas for transportation to other States. At the spot, they found 9 numbers or motor cycles. On verification of the spot twelve white and one green colour packed plastic bags found and acute smell of Ganja coming out from those thirteen plastic bags. The apprehended person Sameer Majhi admitted that he along with his brother Firoz Majhi and others are dealing with contraband ganja trade and transportation. They sell the same to ganja traders of Chhatisgarh and Bihar States at Rs.10,000/- per Kg for profit. They procure the ganja from local Tribals at a cheap cost paying Rs.5,000/- per kg. and transport the same to cashew plantation for packing for disposal to traders to other States. Seeing the police party, other accused persons were fled away from the spot. It is alleged that the Informant seized 13 numbers of Jeeri bags and on weigh, the ganja it comes to 1164 kgs. 929 grams. The Informant seized the ganja and initiated case against the accused persons.

5. Learned counsel for the Petitioner submits that Petitioner is languishing in jail custody since the date of his arrest, i.e. 05.02.2021. It is submitted that the Petitioner is an innocent person, he has been falsely entangled in the case. Since he is a permanent resident of the village, there is no chance of evading the trial of the case in the event of his release. Moreover, seizure has not been effected from the conscious possession of the present Petitioner and hence Section 37 of the N.D.P.S. Act will not be attracted to the case of the Present Petitioner. It is further submitted that the co-accused persons have been released on bail by this Hon'ble Court in BLAPL Nos.9455 /2020, 8284/2020 & 6982/2020.

6. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner. It is submitted that now-a-days case of illegal trafficking of contraband articles are increasing day by day, therefore, no leniency should be shown to the present Petitioner, who involved in such crime. Accordingly, he urged for rejection of his bail application.

7. Having regard to the facts and circumstances of the case, considering the nature and gravity of offences alleged and the period of detention of the Petitioner, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

i) He shall not involve himself in any similar nature of offence particularly involving the offence under the NDPS Act;

(ii) He shall appear before the trial court on each and every date as fixed by the court;

(iii) He shall appear before the I.O. on every fortnight of the month, preferably on Sunday at 10 A.M. to 1.00 P.M. and report to the police;

(iv) He shall not tamper with the prosecution evidence;

(v) He shall not influence or threaten any prosecution witness and cooperate in the investigation;

(vi) He shall provide his present address and mobile number to the I.O. and if any changes therein shall also be intimated to the I.O.;

(vii) He shall not leave the jurisdiction of the court without special permission from the court; and

(viii) Violation of any of the above conditions shall entail cancellation of the bail.

8. Learned counsel for the Petitioner submits that there are two criminal antecedents against the Petitioner of similar nature. Further, the co-accused persons have been released on bail with the above two criminal antecedents. In the event, the present Petitioner has any other criminal antecedents besides the above two, this order shall stand rejected.

9. With the above direction, the BLAPL is accordingly allowed.

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10. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge

U.K.Sahoo

