

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7093 of 2021

Radhakanta Nayak

....

Petitioner

Mr. A.K. Mohanty, Advocate

-versus-

State of Odisha

....

Opposite Party

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.03.2022

Order No.

06.

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 G.R. Case No.97 of 2020 arising out of Adava P.S. Case No.137 of 2020 pending in the court of learned Special Judge, Gajapati, Paralakhemundi for commission of offence punishable under Section 20(a)(i) of the N.D.P.S. Act read with Section 27(1)(a) of the Orissa Forest Act, 1972.
5. The prosecution story, in nutshell, is that one Ananda Chandra Patro, working as I.I.C. of Adava P.S. in the district of Gajapati on

getting reliable information that the petitioner and others are illegally cultivating Cannabis plant in the nearby hilly area has lodged plain paper F.I.R. on 19.12.2020 alleging herein that on 18.12.2020 he along with other police staffs proceeded to the village Gumiguda and Chudanagar G.P. area for destruction of illegal cultivation of Cannabis tress. It is further alleged from the reliable source it came to knowledge that the alleged Cannabis plants are cultivated illegally by the petitioner and his associates. Accordingly, he instructed the concerned R.I., who reported that the said land belongs to Government and forest. Accordingly, the raiding party cut down the plants from its stem and deposited in one place. Since the quantities of plants were found huge the informant collected the samples and destroyed the rest by setting fire. As per the F.I.R., the police registered a case and took up investigation.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 15.03.2021 and investigation of the case has been completed and charge-sheet in the case has been submitted. He further submits that the petitioner was arrested in one case and he was remanded in many other cases of similar nature. The seized contraband crops have been destroyed by the local police. Further he submits that there is no scope for absconding or fleeing from the hands of the justice and that the Petitioner is a local man. Furthermore, learned counsel for the petitioner submits that Section 37 of the N.D.P.S. Act is not attracted against the petitioner.

7. Learned counsel for the State, on the other hand, opposes the prayer for bail of the Petitioner and submits that the petitioner has thirteen number of criminal cases against this name including cases under N.D.P.S. Act and illegal trafficking of contraband articles is rising day-by day and no leniency should be shown to the Petitioner

or similarly situated persons. He further submits that the petitioner is a financier and he has engaged the young persons in the locality for planting of the cannabis trees in hilly areas. Therefore, the prayer for bail application of the petitioner may be rejected.

8. Considering submissions made by the parties 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 two local solvent sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following conditions:-

- 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. he shall not make any default in attending the court during trial on each date without fail;
- IV. he 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; and
- V. He shall not leave the jurisdiction of the Court in seisin over the matter and shall furnish his address and mobile number to the police from time to time and shall surrender his travel

documents/passport, if any, before the trial court.

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

9. It is open for the court in seisin over the matter to impose any other conditions as may be deemed just and proper.

10. The Bail Application is accordingly disposed of. 11.

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

Jagabandhu

