

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7176 of 2021

Niranjan Kanhar

....

Petitioner

Mr. S.R.Mohapatra, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. K.K. Nayak, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

07.03.2022

Order No.

03. 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 Boudh Excise P.R. No.19 of 2018-2019, arising out of 2(a) C.C. (NDPS) No.05 of 2019, pending in the court of learned Sessions Judge-cum-Special Judge, Boudh, for commission of alleged offences under Sections 20(b)(ii)(C) and 29 of N.D.P.S. Act.
3. Heard learned counsel for both the parties. Perused the Case Diary, F.I.R. and the statement of the witnesses.
4. Learned counsel for the Petitioner submits that Petitioner is languishing in jail custody since the date of his arrest, i.e. 13.03.2019. It is further submitted that after completion of investigation, police has submitted charge-sheet in the case. Learned counsel for the Petitioner submits that Petitioner is the father and his son who was carrying the two bags of contraband Ganja in the motorcycle. It is stated that on seeing the Excise Staff, the son threw

away one bag and taking one bag with him fled away from the spot leaving the said motorcycle. The present Petitioner, who was his father tried to pick the bags up threw away by his son and caught on the spot, whereas his son absconded from arrest. Learned counsel for the Petitioner submits that neither has the Petitioner any knowledge with regard to the contraband articles in the said bag nor was it recovered from the exclusive possession of the Petitioner. It is further submitted that the present Petitioner is a permanent residence of the locality, therefore, there is no chance of absconding to evade trial or to tamper with the prosecution witnesses. The further submission is that Petitioner has no criminal antecedents of similar nature.

5. Learned counsel for the State on the other hand vehemently objects the prayer for bail of the Petitioner on the ground that such type of offences are increasing day by day in the State, therefore, no leniency should be shown to any accused person(s) whosoever it may be. However, he submits that in the event of release, stringent conditions may be imposed on the Petitioner. It is further submitted that the police arrested the present Petitioner when he was picking up the contraband articles thrown by his son. So it cannot be denied that the contraband articles were not seized from the exclusive possession of the present Petitioner. Accordingly, a prayer has been made to reject the bail application of the Petitioner.

6. Having heard learned counsel for the parties, 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 not tamper with the prosecution evidence;
- (iv) He shall not influence or threaten any prosecution evidence and cooperate in the investigation;
- (v) He shall provide the present address and mobile number to the local police station; and
- (vi) Violation of any of the above conditions shall entail cancellation of the bail.

7. Petitioner is also directed to appear before the local police station at an interval of every fifteen days between 11.00 A.M. to 1.00 P.M. on a working day once he comes out of the jail custody. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

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

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

(A.K. Mohapatra)
Judge