

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7203 of 2021

Mahammad Sahid

.... ***Petitioner***
Mr. S. Dwibedi, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

16.03.2022

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, statement of the witnesses and other relevant documents.
 3. This is an application under Section 439 of the Criminal Procedure Code.
 4. The Petitioner is an accused in T.R. Case No.3 of 2021 corresponding to Papadahandi P.S. Case No.2 of 2021 pending in the court of learned Sessions Judge-cum-Special Judge, Nabarangpur for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act, 1985.
 5. The prosecution case, in short, is that one Subash Chandra Korkara on 04.01.2021 lodged a written report before the I.I.C. Papapdahandi P.S. while on the same day they were performing patrolling duty at Maidalpur on NH-26 at about 1.00 P.M., found a

black colour vehicle bearing Registration No.UP-32-LF-8211 (XUV-300) coming from Papadahandi side towards Ampani. The vehicle was intercepted and stopped by the police patrolling team. On search, police team came to know strong smell of ganja coming out from the vehicle. On being asked the occupant of the vehicle disclosed their names (1) Mahammad Sahid, (2) Deepak Singh and (3) Jit Lal Saroj. On further search of the vehicle, contraband ganja weighing 65 Kgs. was recovered from the vehicle. Since the occupants of the vehicle could not give any satisfactory answer, the police team seized the contraband articles, arrested and forwarded the above named accused persons.

6. Learned counsel for the petitioner submits that the petitioner is an innocent person and he has been falsely implicated in this case. He further submits that the petitioner is languishing in custody since 04.01.2021 and that the investigation of the case has been concluded and the police submitted charge-sheet in the meantime.

7. It is further submitted by learned counsel for the petitioner that earlier the petitioner moved an application for bail before the learned Sessions Judge-cum-Special Judge, Nabarangpur and the prayer for bail of the petitioner was rejected by the said court vide order dated 20.08.2021.

8. It is further submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the case by the informant. One Jit Lal Saroj, who was the driver of the vehicle and the owner of the vehicle, is one Anjali Singh, W/o-Pratap Singh. He further submits that the present petitioner was only the occupant of the vehicle, who had hired the vehicle from the owner to travel to Odisha and which was not within the knowledge of the driver that he had taken contraband articles in small packets in the dicky of the vehicle. Therefore, he

submits that it can be presumed that the alleged contraband ganja was seized and recovered from the conscious and exclusive possession of the petitioner. Further, learned counsel for the petitioner submits that although the petitioner belongs to State of Uttar Pradesh, he is ready and willing to provide local solvent sureties and shall appear before the trial court for trial on each and every date without fail.

7. Leaned counsel for the State, on the other hand, strongly opposes the prayer for bail of the petitioner and submits that the quantity of the contraband ganja involved in the present case is more than commercial quantity as prescribed in the Notification issued by the Government. Further the petitioner was arrested at the spot and while was travelling in the said vehicle, in which strong smell was coming out as such it cannot be presumed that the petitioner was not aware of the fact of illegal transportation of contraband ganja in the vehicle. On such submission, learned counsel for the State strongly urges for rejection of the prayer for bail of the petitioner. It is also submitted that illegal trafficking of contraband articles is rising day-by-day and no leniency should be shown to the petitioner or similarly situated persons and prays for rejection for bail application of the petitioner. He further submits that quantity of ganja seized is more than commercial quantity, which is bar under Section 37 of the N.D.P.S. Act and the same is applicable to the facts of the present case. On the aforesaid ground, learned counsel for the State strongly urges for rejection of bail application of the petitioner.

8. Considering the submissions made by learned counsel for the parties, surrounding facts and circumstances, this Court is not inclined to release the petitioner on bail at this stage. However, considering the submissions made by the learned counsel for the petitioners that the petitioner was travelling in the vehicle, which was hired by him and

that the petitioner is in custody since more than one year, this Court, directs the court in seisin over the matter to expedite the trial and conclude the same preferably by end of August, 2022. In the event the trial is not concluded within the aforesaid stipulated time, it is open for the petitioner to move a fresh bail application before the learned court below. In the event such bail application is filed, the same shall be considered without being influenced by any other factor.

9. With the aforesaid observation, the bail application stands disposed of.

Jagabandhu

