

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7456 of 2021

Parsu @ Purusottam Patra

.... ***Petitioner***
Mr. A.P. Bose, *Advocate*

-versus-

State of Odisha

.... ***Opp. Party***
Mr. K.K. Nayak, *A.S.C.*

CORAM:

JUSTICE A.K. MOHAPATRA

Order No.

ORDER
12.01.2022

03.

1. This matter is taken up through Video Conferencing Mode.
2. Heard Mr. A.P. Bose, learned counsel for the Petitioner and Mr. K.K. Nayak, learned counsel for the State.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in Special G.R. Case No.7(A) of 2019 corresponding to Sonapur P.S. Case No.225 of 2019 pending in the court of learned Sessions Judge-cum-Special Judge, Sonapur for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act.
5. It is alleged that on 03.12.2019 at about 12.30 P.M. S.I. of Police along with his staff were performing patrolling duty at Kunja Chhak, Sonapur, he detected illegal transportation of contraband ganja packed in one plastic gunny bag weighing 33 Kgs. 250 grams including plastic jari basta by a Maruti Eco vehicle and seized the same from the seized vehicle on the allegation that the said vehicle

was being driven by the co-accused at the instance of present accused person, who fled away from the spot.

6. It is submitted by learned counsel for the Petitioner that on the confessional statement of the co-accused, the Petitioner has been implicated in this case and there was no material to implicate him with the seizure of Ganja. It is also submitted to be on record that the petitioner does not have any criminal antecedent of similar nature of offence. Further it is submitted that on similar footing with the present petitioner co-accused persons has already been released on bail by this Court. It is further submitted by the learned counsel for the Petitioner that since the contraband articles have not been seized from the conscious possession of the Petitioner, the bar of Section 37 of the N.D.P.S. Act shall not apply to the facts of the present case.

7. Perused the F.I.R. as well as the other materials as placed before the Court.

8. Learned counsel for the State vehemently opposes the prayer for bail of the Petitioner and submits that the petitioner was an absconder and that the illegal trade of contraband articles are on the rise in the entire State.

9. Having heard learned counsel for the parties and considering the period of detention of the Petitioner and the co-accused person has already been released on bail, 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 solvent sureties each for the like amount to satisfaction of the learned court in seisin over the matter subject to conditions that the Petitioner shall not get involved in any offence of similar nature while he is on bail, he shall not tamper with the prosecution evidence in any manner whatsoever and shall appear in

court during trial on each and every date without fail. Violation of any of the terms and conditions shall entail cancellation of bail granted hereby

10. It is open for the court in seisin over the matter to impose any conditions as may deem just and proper.

11. 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. In the event it is found that the Petitioner has any criminal antecedents, this bail order shall automatically stands revoked.

12. The Bail Application is accordingly allowed.

13. As the restrictions due to resurgence of COVID -19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Office Order dated 7th January, 2022.

(A.K. Mohapatra)
Judge