

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.7161 OF 2020

Kabi Bidika

.... ***Petitioner***
Mr. B.R. Tripathy, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. Soubhagya Ketan Nayak, AGA

**CORAM:
MR. JUSTICE D.DASH**

ORDER
04.01.2022

Order No.

- 03.
1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
 2. This is the second journey of the Petitioner, who is in custody in connection with Mohana P.S. Case No.132 of 2019 corresponding to G.R. Case No.49 of 2019 pending on the file of learned Special Judge, Gajapati running for the alleged commission of offence under section 20(b)(ii)(C)/25/29 of the NDPS Act, in filing this application under section 439, Cr.P.C., for his release on bail.
 3. Learned counsel for the Petitioner submits that this Petitioner being arrested in the case on the allegation of being in possession of 59 kgs. of ganja, has been in custody since 02.08.2019. He further submits that co-accused namely, Ishaq Majhi, who is said to be driving the vehicle at the relevant point of time has been released on bail. He further submits that the vehicle in question stands registered in the name of the father of

the said accused and this Petitioner having taken a lift on the way has been the victim of the circumstance. In view of all these above, when in the time the two witnesses have been examined and there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence and as according to him, the bar contained under section 37 of the NDPS Act at this stage does not stand on the way of grant of bail to the Petitioner, urges for reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned counsel for the State opposes the move in view of the quantity of contraband seized. He further submits that the Petitioner and another have been implicated in the case as to have engaged the other accused in carrying the contraband ganja and therefore, grant of bail to said accused has very little to do in the matter of consideration of the prayer for grant of bail to this Petitioner. He however does not dispute the position that the Petitioner is in custody since 02.08.2019 and that the progress of the trial has not been at the desired pace. In view of all these above, further citing the bar contained under section-37 of the Act contained, he contends that it is not a case for grant of bail to the Petitioner.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the petitioners with other surrounding circumstances including the period of detention of the petitioner in custody; while being inclined to reconsider the prayer for grant of bail to the Petitioner; it is directed that the petitioner be released on bail in

the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that: he shall appear in person before the Court in seisin of the case on each and every date of posting of the case till conclusion of the trial; shall not indulge himself in any similar type of activity; and shall appear before the Inspector-in-Charge of the concerned P.S. on every Monday in between 10.00 am to 2.00 pm for the next one year.

Violation of any of the condition(s) shall entail cancellation of bail.

6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

**(D. Dash),
Judge.**

Narayan

