

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7167 of 2020

Narendra Sethy

....

Petitioner

Mr. Arjun Chanran Behera, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. S. Mishra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

19.10.2022

Order No.

09.

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.

3. This is an application under Section 439 of the Criminal Procedure Code.

5. The petitioner is an accused in Special Case (NDPS) No.22 of 2022 corresponding to out of C.T. Case No.363 of 2020 arising out of Boudh P.S. No.145 of 2020 pending in the court of learned Sessions Judge-cum-Special Judge, Boudh for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act.

6. The brief factual backdrop of the case is that the informant one Manoj Kumar Sahu S.I. of Polcie of Model P.S. Boudh lodged the F.I.R. on 05.09.2022 before the IIC, Model P.S. Boudh alleging that he got a reliable informant about transportation of ganja by two persons in a motor cycle from Rengali side to Boudh side. The informant alleged that with prior informant to the IIC, Model P.S.

and proceeded along with other staff of the said Police Station to the Rengali side and wait at Baghapada Hata. The informant further alleged that at about 7.30 A.M. two persons came riding one black colour Honda Motor Cycle without number plate came from Rengali side in high speed carrying two jerry bags kept being carried by pillion riders on the back side seat of the motor cycle. The informant also alleged that on suspicion they detained the motorcycle, after search of the two bags the informant found that one jerry bag contained 15 Kgs.150 grams and another bag contains 15 Kgs. 150 grams of contraband ganja including jerry bags, where as the jerry bags weight 200 grams and the total ganja inside the two plastic bags are 30 Kgs. 100 grams. Thereafter, the informant seized the motorcycle and arrested the present petitioner along with another. Basing on the aforesaid allegation Boudh P.S. Case No.145 of 2020 was registered and police investigated into the matter.

7. It is submitted by learned counsel for the petitioner that the petitioner along with another co-accused were carrying one jerry bag contained 15 Kgs.150 grams and another bag contains 15 Kgs. 150 grams of contraband ganja including jerry bags, where as the jerry bags weight 200 grams and the total ganja inside the two plastic bags are 30 Kgs. 100 grams of contraband ganja was recovered from the conscious possession of the present petitioner. Further, it is submitted by learned counsel for the petitioner that the petitioner is in custody since 05.06.2020 and charge-sheet has been submitted. Further, he submits that there is no chance of absconding or fleeing away from the hands of justice and in the event of release, the petitioner will appear before the trial court on each date of posting of the case and shall abide by terms and conditions that may be

imposed by this Court.

8. Learned counsel for the State vehemently opposes the prayer for bail of the petitioner and submits that innocence of the petitioner can only be established during trial. Further, it is submitted that the illegal trafficking of contraband articles are rising day-by-day in the State of Odisha and no leniency should be shown to the petitioner or any other accused found guilty in such offences. In such view of the matter, learned counsel for the State urges that the bail application of the petitioner may be rejected at this juncture.

9. Having heard learned counsel for the parties and considering the period of custodial detention of the petitioner and the facts and circumstances of the case, it is directed that let the petitioner be released on bail on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to following conditions that :-

- 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; and
- IV. he shall appear before the concerned Police Station once in a fortnight preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of trial.

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

10. It is open for the court in seisin over the matter to impose other conditions as may be deemed 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 of similar nature. In the event it is found that the Petitioner has any criminal antecedents, this bail order shall automatically stand revoked.

12. The Bail Application is accordingly disposed of.

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

Jagabandhu

