

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7571 of 2021

Pinku Barik

....

Petitioner

Mr. B.R. Tripathy, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Y.S.P Babu, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

08.03.2022

Order No.

04.

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 and other relevant documents as well as statement of the witnesses.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in Special T.R. Case No.49 of 2021 arising out of Rairakhol P.S. Case No.129 of 2021 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Rairakhol for commission of offence punishable under Sections 20(b)(ii)(C)/25/29 of the N.D.P.S. Act.
5. The prosecution allegation, in short as per F.I.R., is that on 21.07.2021 at about 7.30 P.M. the police got reliable source of information regarding illegal transportation of Ganja on 709 truck bearing Registration No.OR-02-BK-3748 with advance pilot car bearing Registration No.OD-02-AL-0397 which was coming from

Boudh/Kantamal to Cuttack via Rairakhol and started Motor vehicle checking on NH-153(B) at Railway over bridge at Purunagarh Chhaka. At about 8.45 P.M. police team detected one Brown colour 709 Truck bearing Registration No.OD-02-BK-3748 with advance pilot car being Registration No.OD-02-AL-0397 coming with high speed, when the police gave signal to the driver of both vehicles to stop, the advance pilot car tried to escape from the spot in a high speed. They chased them and apprehended one pillion rider whereas the driver of the car managed to escape from the police clutches due to dense forest, whereas the 709 truck being driven by driver and co-driver apprehended by the police with truck at the spot. Police rounded the copilot of the said car and driver and co-driver of 709 truck. During verification of the rounded persons by police team one pattern system was found in the lorry truck under dala which is called as secret chamber from where smell of contraband ganja was coming out. Being further asked the accused Pinku Barik confessed that he is the co-pilot of the white colour swift desire car being Registration No.OD-02-AL-0397 being driven by his brother Rinku Barik to protect ganja loaded in the 709 truck for transportation purpose from Kantamal areas to Cuttack areas via Rairakhol. Both have modeling 709 truck with underground box pattern to be utilized for transportation of contraband ganja. The accused Pinku Barik also disclosed that his brother Rinku Barik utilized the driver Chhabi Das and Co-driver Niranjan Sahu for transporting contraband ganja. After completing the formalities for search, 153 ganja packets recovered. On weighment it came to 230 Kgs. The police seized the contraband ganja which was recovered from the conscious and exclusive possessions of the accused persons. Thereafter the accused persons were arrested and were forwarded to Court for committing offence under Sections 20(b)(ii)(C)/25/27 of the N.D.P.S. Act, 1985.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 27.07.2021 and investigation of the case has been completed and charge-sheet in the case has been submitted. He further submits that there is no scope for absconding or fleeing from the hands of the justice and that the Petitioner is a local man. He also submits that the Petitioner does not have any criminal antecedents of similar nature.

7. Leaned Additional Government Advodate for the State vehemently opposes the prayer for bail of the Petitioner and submits that number of such cases are increasing day-by-day and no leniency should be shown to the Petitioner or similarly situated persons.

8. Having heard learned counsel for the parties and considering the period of custodial detention of the Petitioner, 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 local solvent sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following conditions:-

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

- V. He shall not leave the jurisdiction of the Court in seisin over the matter and shall furnish his address and mobile number to the police from time to time.

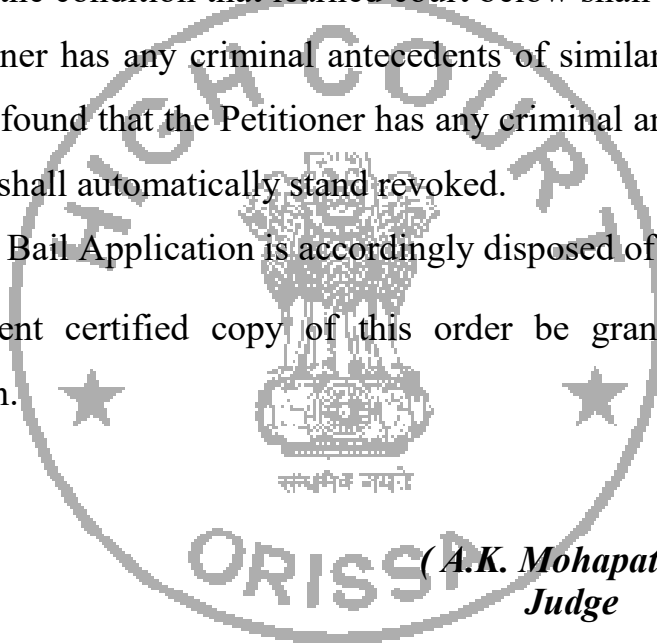
Violation of any of the terms and conditions shall entail cancellation of bail.

9. It is open for the court in seisin over the matter to impose other conditions as may be deemed just and proper.

10. 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.

11. The Bail Application is accordingly disposed of.

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



(*A.K. Mohapatra*)
Judge