

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.7610 of 2021**

***Padlam Behera***

***..... Petitioner***  
***Ms. Babita Sahu, 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.

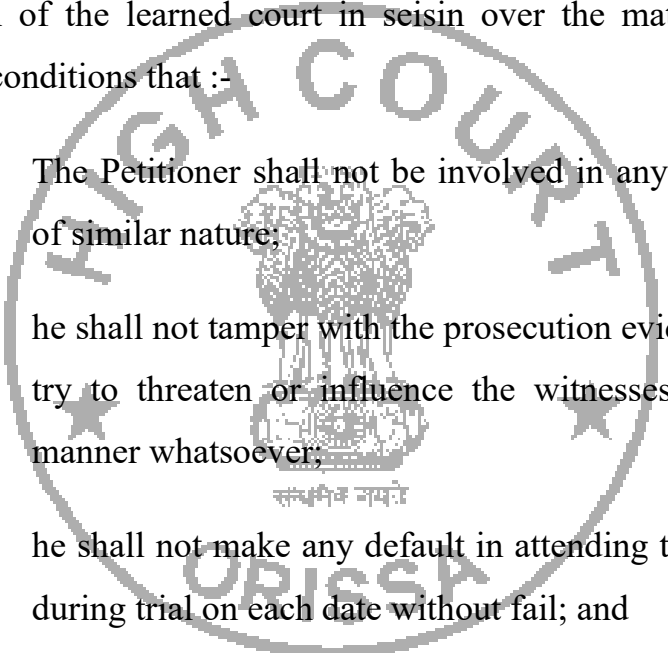
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the F.I.R., case diary and other relevant documents as well as statement of the witnesses.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in T.R. Case No.74 of 2021 arising out of Kalimela P.S. Case No.181 of 2021 pending in the court of learned Sessions Judge-cum-Special Judge, Malkangiri for commission of offence punishable under Section 20(b)(ii)(C)/27-A/29 of the N.D.P.S. Act.
5. The prosecution case, in brief, is that on 09.08.2021, S.I. Sri Krunal Kumar of Kalimela P.S. along with his staff was patrolling duty

at Kalimela-Poteru Road on NH-326, Near MPV-31 they noticed one motor cycle was coming towards Kalimela from MV-66 side in a high speed bearing Registration No.OD-10-C-7708. The said motorcycle was stopped and the rider of the motorcycle disclosed his name as Padlam Behera. Simultaneously Auto was coming at a little distance of 300 meters. When they stopped the Auto bearing Registration No.OD-30-B-9777, found the Auto was driven one person, namely, Dinabandhu Gouda and another person accompanied him disclosed his name as Mangat Ram of Village Thanmandi P.S. Laduwal district-Ludhiana State Punjab at/Pre: Hatapada Sahi, P.S. Kalimela, Dist. Malkangiri. They found nine numbers of plastic jary bags in this Auto. On being asked the accused persons confessed that they are transporting the ganja without authority and from their conscious possession 265 Kgs. 900 grams of contraband ganja was recovered and seized.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 09.08.2021 and investigation of the case has been completed and charge-sheet has been submitted by the police. He further submits that on suspicion, the petitioner was caught by the police while he was travelling from Kalimela from MV-66. On being detained by the police, questioned to the petitioner, he disclosed his name and addressed and thereafter, an Auto arrived at the spot in which the Ganja was seized by the police. Therefore, learned counsel for the petitioner submits that like contraband articles being seized from the conscious and exclusive possession of the Petitioner. He further submits that the petitioner does not have any criminal antecedent of similar nature and Section 37 of the N.D.P.S. is not attracted. He also submits that there is no scope for absconding or fleeing from the hands of the justice and that the Petitioner is a local man.

7. Mr. Mohanty, learned Additional Standing Counsel for the State vehemently opposes the prayer for bail of the Petitioner and submits that illegal trafficking of contraband articles is rising 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 and that Section 37 of the N.D.P.S. Act is not attracted, 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 :-

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- 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 week 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.

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.

Jagabandhu

