

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7630 of 2021

Bannu Das

....

Petitioner

Mr. S.N. Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

21.02.2022

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 on record.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in T.R. Case No.92 of 2019 arising out of Orkel P.S. Case No.120 of 2019 pending in the court of learned Sessions Judge-cum-Special Judge, Malkangiri for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act.
5. It is submitted by learned counsel for the Petitioner that the vehicle, which was carrying contraband ganja was seized from the spot and the persons, who were sitting in the said vehicle fled away from the spot on seeing the police. He further submits that the owner of the vehicle is Sumitra Kushwaha. On enquiry made by the police

that the vehicle was driven by the driver of the said vehicle. They had not known, whether the vehicle was seized by the police and the driver is the present Petitioner and he informed to the owner of the vehicle that the vehicle has been stolen. Learned counsel for the Petitioner further submits that the present Petitioner has no role to play in the alleged occurrence and he has been falsely implicated in this case. The said owner of the vehicle on such ground prays for grant of bail to the Petitioner, who is the only earning member of the family to look after. He also submits that the Petitioner does not have any criminal antecedents of similar nature and he is in custody since 21.07.2021.

6. Mr. Mohanty, learned Additional Standing Counsel for the State vehemently, opposes the prayer for bail of the Petitioner and submits that on the basis of the statement of the owner of the vehicle, the petitioner has been apprehended and since the case is involved more than commercial quantity of contraband ganja, which is bar under section 37 of the N.D.P.S. Act and that further submits that number of such cases are increasing day-by-day and no leniency should be shown to the Petitioner or similarly situated persons.

7. Having heard learned counsel for the parties and considering the period of detention of the Petitioner as well as the fact that the Petitioner was not arrested at the spot and he was subsequently arrested on the submission of the owner of the vehicle and that at this stage, 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 conditions that the Petitioner shall not be involved in any offence of similar nature, he shall not tamper with

the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever, shall not make any default in attending the court during trial on each date without fail and 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.

8. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

9. 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 stand revoked.

10. The Bail Application is accordingly disposed of.

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

Jagabandhu

(*A.K. Mohapatra*)
Judge