

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

**BLAPL No.7676 of 2021**

***Shusadeba Pradhan***

.... ***Petitioner***  
*Mr. R.L.Patnaik, Advocate*

**-versus-**

***State of Odisha***

.... ***Opposite Party***  
*Mr. K.K.Nayak, 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 appearing for the State.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in 2(a) C.C.Case No. 17 of 2021 arising out of Inspector of Excise, District Mobile, Phulbani P.R.No.01 of 2021-22 dated 03.08.2021 pending in the court of learned Sessions Judge-cum-Special Judge, Phulbani for commission of offence punishable under Sections 20(b)(ii)(C) of the N.D.P.S. Act.
5. Learned counsel for the Petitioner submits that the Petitioner is the auto driver and is in custody since 03.08.2021. Investigation of the case has been concluded and charge sheet has been submitted in the meantime. It is further submitted by the learned counsel for the

Petitioner that the Petitioner was hired by two persons, who were sitting in the auto and carrying two bags containing contraband articles, which was not within his knowledge. The other persons have also been arrested along with the Petitioner. Further, the learned counsel for the Petitioner submits that the contraband articles have not been seized from the conscious and exclusive possession of the Petitioner as the other accused persons were holding the bags. Therefore, bar under Section 37 of the NDPS Act is not attracted.

6. Learned counsel for the State vehemently opposes the prayer for bail of the Petitioner and submits that since the Petitioner was apprehended from the spot and was riding the auto, from which contraband articles were seized. Therefore, the Petitioner is not entitled to be released on bail.

7. Having heard learned counsel for the parties and considering the allegations made against the Petitioner and keeping in view the period of custodial detention of the Petitioner, I am inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released on bail in the aforesaid case 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 appear before the concerned Police Station in a fortnight preferably on Sunday between 10 A.M. to 1 P.M till completion of the trial and shall appear before the court during trial on each date. 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 as 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 such criminal antecedents, this bail order shall automatically stands revoked.

10. The Bail Application is accordingly disposed of.

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

RKS

**( A.K. Mohapatra )**  
**Judge**

