

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7848 of 2021

Akshya Sa

.... ***Petitioner***
Mr. T. Barik, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.02.2022

Order No.

02.

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 G.R. Case No.71 of 2021 arising out of P.R. No.23/2021-22 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Padampur for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act.
5. The prosecution story, in a nutshell, is that on 23.08.2021 at about 2.00 P.M. the complainant Smt. Rasmita Lakra, IC, Excise, District Mobile Unit, Bargarh was conducting patrolling duty with other excise officials in village Kudopali and at that time she found a person was carrying a white colour plastic bag on his left shoulder and was proceeding towards Jagannath Temple. On suspicion said person

was detained and enquired about the contents of the Plastic bag. Suspecting involvement of the person in transportation of contraband article. Thereafter, the complainant complied with the provision of Section 50(6) of N.D.P.S. Act and mentioned about her ground of belief regarding commission of an offence under N.D.P.S. Act. Subsequently, the complainant had complied with the provision of Section 50 of N.D.P.S. Act and asked the detained person regarding his willingness to be searched by a Gazetted Officer or Executive Magistrate. The accused person expressed his willingness to be searched by the Excise Officials and his version was reduced into writing. On search, the Excise Officials recovered from his possession a Plastic Bag having 27 Kgs. 240 grams of ganja in it and accordingly, the Excise Official submitted P.R. Report against the present accused person before the concerned court.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 23.08.2021 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. Mr. Mohanty, leaned Additional Standing Counsel 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 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 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

(A.K. Mohapatra)
Judge