

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7868 of 2021

Bhikari Khora

....

Petitioner

Mr. Manas Chand, 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 C.T. Case No.01 of 2021 arising out of Koksara P.S. Case No.156 of 2021 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Dharamgarh for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act.
5. The F.I.R. is lodged by S.I. of Police of Koksara P.S., namely, G.B. Nayak to the effect that on 31.07.2021 at about 4.30 A.M. he received information that the driver of the vehicle bearing No.OD-10-K-4947 was transporting in the said vehicle and he had concealed the same in secret chamber of the vehicle. It is being transported from Koraput to Kalahandi. On receiving such information, the S.I.

proceeded to village Sirliguda area with other staffs. At about 5.40 A.M. he noticed one white colour Bolero of the above registration number coming from village Bongomunda side. He detained the said vehicle, but the driver of the vehicle managed to flee from the spot, but the S.I. apprehended the above named accused persons sitting inside the vehicle. On interrogation they confessed to have transported contraband articles such as ganja by keeping the same in the secret chamber of the roof of the vehicle. On search of the vehicle the S.I. Nayak found 22 numbers of packets being wrapped with transparent polythene and cello tape. Then he and other staff opened and verified the packets and found that all the packets were contained with contraband ganja having fruiting and flowering tops of cannabis plant. On weighment it came to 45,890 Kgs. Accordingly, the necessary seizures were made and the accused/Petitioners were arrested and forwarded on 01.08.2021 for allegedly committing the offence under Section 20(b)(ii)(C) of the N.D.P.S. Act. The I.I.C., Koksara registered this case against the accused persons under the above section of law.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 01.08.2021 and investigation of the case has been completed and charge-sheet in the case has been submitted and that the Petitioner is a gratuitous passenger of the said vehicle and he had no knowledge about the contraband articles. 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 and Section 37 of the N.D.P.S. Act is not attracted.

7. Mr. Mohanty, learned 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, considering the period of custodial detention of the Petitioner and the fact that the Petitioner is a gratuitous passenger 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 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.

