

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7914 of 2021

***Aswini Naik @ Aswini Kumar
Nayak @ Nasir***

....

Petitioner

Mr. S.K. Mohanty, Advocate

-versus-

State of Odisha

....

Opposite Party

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

CORAM:

JUSTICE A.K. MOHAPATRA

**ORDER
23.03.2022**

Order No.

06.

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.58 of 2021 arising out of Jeypore Sadar P.S. Case No.136 of 2021 pending in the court of learned Special Judge-cum-Sessions Judge, Jeypore for commission of offence punishable under Sections 20(b)(ii)(C) of the N.D.P.S. Act.
5. The prosecution allegation as it reveals from F.I.R is that on 18.07.2021 at 5.36 P.M. the O.I.C. Jeypore Sadar P.S. received information from reliable source that contraband ganja at 102 Kgs. loaded in a XUV car near canal road, Kalaguda and ganja has been packed. On getting information, the police staff proceeded to spot and found a white colour XUV 500 car without Registration Number is

standing there and there are 5 to 6 occupants in the said car and a person waiting with one white colour Pulsar bike in front of the said car. On seeing the police party, the occupants of the car ran away on different directions along with rider of the bike. They would able to apprehend one of the occupants of the car and bike rider. On being asked, bike rider stated his name and address as Aswini Naik @ Nasir.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 18.07.2021 and investigation of the case has been completed and charge-sheet in the case has been submitted. He further submits that the petitioner is an innocent and he has no way connected with the allege incident and that the alleged contraband articles were seized from the XUV car and the petitioner was on a motorcycle and also contraband articles were not seized and recovered from the conscious and exclusive possession of the petitioner and that Section 37 of the N.D.P.S Act is not attracted. Further he submits that the petitioner does not have any criminal antecedents of similar nature and that there is no scope for absconding or fleeing from the hands of the justice and that the Petitioner is a local man.

7. Leaned counsel for the State, on the other hand, 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. Considering submissions made by the parties and the period of custodial detention of the Petitioner and the fact that the petitioner is a driver of the vehicle and he has no criminal antecedents, it is directed that let the Petitioner be released on bail on furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) with two local solvent sureties for the like amount to the satisfaction of the learned court in

seisin over the matter subject to the following conditions:-

- 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;
- 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; and

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.

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

(A.K. Mohapatra)
Judge