

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7936 of 2021

Bikash Nag

....

Petitioner

Mr. Jagabandhu Sahu, Advocate

-versus-

State of Odisha

....

Opposite Party

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

28.03.2022

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 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.58 of 2021 arising out of Gochhapada P.S. Case No.66 of 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. The brief fact of the case is that on 22.08.2021 one Ranjit Kumar Muni, O.I.C. of Gochhapada Police Station drew a plain paper F.I.R. stating therein that on the same day at about 9.15 A.M., he along with other staffs of the Police Station were performing day patrolling duty in Gohhapada area. At that time, he got information from reliable sources that one Silver color Swift Dezire Car bearing registration no.OD-03-Q-0884 will be transporting ganja from Banduli area to Bolangir side under Gohhapada area. Getting such information, the patrolling party rushed to

the spot, i.e. Banduli Chhack and waited for the suspicious car. At about 10.40 A.M. they noticed one silver colour Swift Dzire proceeding towards Kantamal. The patrolling party intercepted the car along with two persons. On being asked they disclosed their names as 1) Bikash Nag(Driver) of village Fatkara, P.S. Balangir Sadar and 2) Bhupendra Sahu of Radharanipada, Balangir. After completion of formalities of search, silver colour dzire car was searched and one poly Bag was recovered from the back of the Car. The bag was brought out from the dicky of the car and on opening of the bag ganja i.e. flowering and fruiting tops of cannabis plant (Excluding the seeds and leaves) were detected. The bags were weighed and the weight of the ganja came to 43 Kgs. 250 grams (including the bag). The informant seized the contraband ganja and the silver colour Swift Dzire car which were recovered from the exclusive and conscious possession of the accused persons. The accused persons were arrested and forwarded to the court for committing offence under Section 20(b0(ii)(C) of the N.D.P.S. Act.

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 on 29.12.2021. He further submits that the Petitioner was the driver of the vehicle and the contraband articles were seized from the dicky of the car which was kept by the driver of the vehicle which was no knowledge of the Petitioner and police on suspicion detained the car and found one bag of the from the dicky. Neither the petitioner was holding the bag nor it was seized from his conscious possession contraband article seized. 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. He further submits that there is no scope for absconding or fleeing from the hands of the justice. 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 illegal trafficking of contraband articles is rising 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 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.