

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7965 of 2021

Jatin Kumar Behera @ Gudu Bhai ***Petitioner***
Mr. A.K. Mohanty, Advocate
-versus-

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
24.02.2022

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 G.R. Case No.75 of 2021 arising out of Mohana P.S. Case No.133 of 2021 pending in the court of learned Special Judge, Gajapati, Paralakhemundi for commission of offence punishable under Sections 20(b)(ii)(C)/25/29 of the N.D.P.S. Act.
 5. The prosecution story, in a nutshell, is that one P. Swaroop Kishen, S.I. of Police, Mohana P.S lodged an F.I.R. on 02.07.2021 before the IIC Mohana Police Station in the district of Gajapati alleging therein that on the alleged date while he along with other staffs were conducting Blocking duty near Chandragiri Outpost on N.H.-326 A at about 2.30 P.M. signaled a Red Car bearing Registration No.OD-02-V-

7144 to stop. At that time, one Tata 407 bearing Registration No.WB-57-D-8765 came from back side and seeing this the driver of the Car all of a sudden tried to escape, but due to road closed, he lost control over the Car and subsequently fled away.

On being asked, the inmate of the Car disclosed his name as Jatin Kumar Behera, the present Petitioner who disclosed the name of the driver as Sanjay Rana. It is further alleged that the present Petitioner disclosed that he hired the Car from Bhubaneswar and contacted the Tata 407 to procure ganja. On verification, it was found five different plastic Jari Bags loaded in the back side of said 407. On further inquiry, police came to know that the present Petitioner along with the driver of the alleged car were piloting the ganja to keep watch on police movements. After following due procedure, the informant weighed the said bags and in total it came to 129.6 Kgs. including Jari Bags and 129.1 Kgs. with the bags. Accordingly, the informant seized the ganja along with the vehicles, collected samples and arrested the Petitioner and others.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 02.07.2021 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 an occupant of the piloted vehicle as alleged by the prosecution and nothing has been seized from the conscious possession of the Petitioner. Driver of the piloted vehicle fled away since the Petitioner had knowledge about the contraband articles, he was apprehended by the police. 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 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 does not have any role to play in the alleged occurrence, 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.