

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8181 of 2021

Hira Das

.... ***Petitioner***
Mr. S. Panda, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. K.K. Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
10.03.2022

Order No.

05.

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 Case(NDPS) No.39 of 2021 arising out of Manamunda P.S. Case No.105 of 2021 pending in the court of learned Sessions Judge-cum-Special Judge, Boudh for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act.
5. The prosecution story as reveals from the F.I.R. is that on 04.08.2021 informant Sasmita Magar, S.I. of manamunda P.S. while performing patrolling duty with her staff in between the Joginrapur Chowk to Dimirimunda Village Road at about 12.15 P.M. they should

one Hyundai Verna CRDI SX(O) 1.6 Car bearing Registration Number OD-02-D-6396 being driven by one driver was coming from village Dimirimunda side in high speed. On suspicion the police staff gave signal to stop the vehicle. Seeing the police signal the speed of the vehicle became slow and stopped. And there three persons are occupant including the driver. The driver of the vehicle disclosed his name as Mahadev Thethua and other occupant identity their names Nepala Meher and Hira Das. Then observing all formalities of NDPS Act they search the vehicle and found 40 Kgs. of contraband Ganja from two jari bags which were kept inside the vehicle.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is a young boy aged about 20 years and he is in custody since 04.08.2021 and investigation of the case has been completed and charge-sheet in the case has been submitted. He further submits that the petitioner is a passenger of the said vehicle and he has no knowledge about the alleged contraband articles were inside the vehicle. Further he submits that the contraband articles were not recovered from the exclusive possession of the Petitioner and he has no criminal antecedents of similar nature of offence and that there is no scope for absconding or fleeing from the hands of the justice.

7. Leaned Additional Government Advocate 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, keeping in view the petitioner was an occupant and the alleged contraband articles were seized from the dicky of the vehicle which was not within the knowledge of the petitioner 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 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
- V. He shall not leave the jurisdiction of the Court in seisin over the matter and shall furnish his address and mobile number to the police from time to time.

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.

(A.K. Mohapatra)
Judge

Jagabandhu

