

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8188 of 2021

Sk.Suleman

.... ***Petitioner***
Mr.Debasnan Das, Advocate

-versus-

State of Odisha

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

04.03.2022

Order No.

06.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard Mr.Debasnan Das, learned counsel for the Petitioner as well as Mr.M.K.Mohanty, learned Additional Standing Counsel for the State.
3. This is an application under Section 439 of the Criminal Procedure Code filed by the Petitioner to release him on regular bail in connection with Spl.G.R.Case No 76 of 2021 pending in the Court of the learned Special Judge-cum Sessions Judge, Nayagarh corresponding to Daspala P.S.Case No.91 of 2021 for commission of the alleged offences under Sections 20B(ii)(C) and 29 of the N.D.P.S. Act.
4. The prosecution case in a nutshell is that on 02.06.2021 at about 11 P.M. while the informant along with other police personnel of Daspalla Police Station were performing night patrolling duty, they found one Bolero pickup vehicle coming from Banigochha side which

was being driven at a very high speed. On seeing the Police personnel, the driver of the vehicle changed the direction of the vehicle and proceeded towards wrong side. On suspicion the Police patrolling party chased the vehicle and finally intercepted the vehicle at a distance. On search of the vehicle, contraband ganja weighing 92 kg. 200 grams were seized from the vehicle.

5. Learned counsel for the Petitioner submits that the Petitioner is in custody since 04.06.2021 and that investigation of the case has been concluded and charge sheet has been filed by the Police. He further submits that the Petitioner is the driver of the vehicle and is a very poor man. It is further submitted by the learned counsel for the Petitioner that the vehicle belongs to one Ghanta Khatua, who was also present in the vehicle. The contraband ganja was being transported at the instance of the said Ghanta Khatua, who had concealed three packets of ganja inside the brinjal packets. It is further submitted by the learned counsel for the Petitioner that the Petitioner was acting on the direction of the owner of the vehicle and he had no knowledge as to what was being carried in the seized vehicle. He also submits that the Petitioner, who is a driver of the vehicle, is a very poor man and has a family to look after. Learned counsel for the Petitioner further submits that some of the co-accused persons have been released on bail by this Court in BLAPL No.5700 of 2021. Further since the Petitioner is a permanent resident of Balasore district, there is no chance of absconding or fleeing away from the hands of justice and in the event the Petitioner is released on bail, he shall abide by any terms and conditions that will be imposed by this Court and shall cooperate with the trial.

6. Learned counsel for the State on the other hand submits that case of illegal trafficking of contraband ganja is increasing rapidly in the State of Odisha. Further, in the event the Petitioner will be released on bail, he may not cooperate with the trial and he may abscond from

justice. Learned counsel for the State further submits that although the Petitioner is the driver of the vehicle, it cannot be presumed that he had no knowledge about the contraband articles, which were kept in the vehicle, that was being driven by him. Accordingly, he prays for rejection of the bail application of the Petitioner.

7. Learned counsel for the Petitioner further submits that the present Petitioner is innocent and owner of the vehicle namely, Ghanta Khatua is the principal accused and he had planned the entire thing which was not within his knowledge. Learned counsel for the State also submits that the said Ghanta Khatua has criminal antecedents of similar nature in his name.

8. Having heard learned counsel for the parties and considering the custodial detention of the Petitioner and the fact that the Petitioner is the driver of the vehicle and the owner of the vehicle, who was also present in the vehicle, while it was intercepted by the Police, this Court is inclined to release the Petitioner on bail subject to stringent conditions. Let the Petitioner be released on bail subject to furnishing bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions :

- i) he shall not indulge in similar nature of offence.
- ii) shall appear before the trial court on each and every date and shall cooperate for early conclusion of trial.
- iii) shall not tamper with the prosecution evidence and shall not make any attempt to influence or threaten the witnesses.
- iv) shall provide his address as well as his phone number to the concerned Police Station and keep the same updated in the event the same is changed in future.
- v) shall not leave the jurisdiction of the trial court without

specific permission of the Court.

- vi) shall appear before the concerned Police Station once in a week preferably on Sunday between 10 to 1 P.M. till conclusion of trial.
- vii) Violation of any of the terms and conditions shall entail cancellation of bail.

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 of similar nature, this bail order shall automatically stand revoked.

11. With the aforesaid observation the BLAPL stands disposed of.

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

RKS

