

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8329 of 2021

Ashok Kumar Sahu

.... ***Petitioner***
Mr. A.S. Paul, Advocate

-versus-

State of Odisha

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

09.03.2022

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 Special G.R. Case No.45 of 2021 arising out of Gaisilat P.S. Case No.123 of 2021 pending in the court of learned Additional Sessions Judge-cum-Special Judge, Padampur 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 16.07.2021 the informant Priska Ojha, S.I. of Gaisilat P.S. while performing M.V. checking duty at Kalangapali Chhak of Gaisilar P.S. along with other staffs at about 7.00 P.M., the informant found a motor cycle coming in high speed towards Sardhapali. On suspicion the said motor cycle was detained. The rider of the motor cycle tried ran away

from the motor cycle but apprehended by the informant on being asked he disclosed his name. it is further stated here that the informant found plastic gunny bag was tied in theseat of the motor cycle. After opening the same the informant noticed two nos. of ganja packet was kept inside the gunny bag. The petitioner disclosed that he was carrying the ganja to M.P. from Boudh for sale. The net weight of ganja was found 20 Kgs. 100 grams. The weight of plastic bag is 120 grams and polithyne was 220 grams. After being complied the mandatory provision of law the Petitioner has been forwarded to the judicial custody. Basing on this report the Gaisilat registered a case 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 16.07.2021 and investigation of the case has been completed and charge-sheet in the case has been submitted. He further submits that he was travelling with them as a passenger and he had no knowledge about the contraband articles were carrying in the said vehicle. He also submits that there is no scope for absconding or fleeing from the hands of the justice and that the Petitioner is a local man. 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 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 one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to following conditions that :-

- 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; and
- 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.

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.

Jagabandhu

(A.K. Mohapatra)
Judge