

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8358 of 2021

Baikuntha Lenka @ Baia

.... ***Petitioner***
Mr. A.K. Das, 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.

04.

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.100 of 2021 arising out of Tirtol P.S. Case No.340 of 2021 pending in the court of learned Special Judge, Jagatsinghpur for commission of offence punishable under Section 20(b)(ii)(C of the N.D.P.S. Act.
5. The On the basis of one F.I.R. lodged by the S.I. Tirtol Police Station, dated 16.08.2021 alleging that on the basis of an information, he received from his reliable source that the petitioner has kept contraband ganja in his shop situated at Rahama bazaar. Anticipating the petitioner might be absconded, the informant S.I. intimated the same to the S.D.P.O., Tirtol and S.P. of jagatsinghpur and also made

arrangement to depute an Executive Magistrate to be present at the time of search and seizure. After that the said S.I. proceeded to the spot with other police personnel and two independent witnesses. It is also stated that the police detained the petitioner till the arrival of learned Tahasildar, Kujanga and seized ganja weighed 16.330 Kgs. and 11.760 Kgs. kept in two jari bags respectively. Accordingly, Tirtol P.S. Case No.340 of 2021 was registered against the petitioner for the alleged commission of offence under Section 20(b)(ii)(C) of the N.D.P.S. Act and arrested.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 16.08.2021 and investigation of the case has been completed and charge-sheet has been submitted. He further submits that the petitioner is license of Opium and he has no knowledge about the contraband articles were in his shop. 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. Further he also submits that the Petitioner does not have any criminal antecedents of similar nature.

7. Mr. Nayak, 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 even though license of a dealer and prayed for rejection for bail application of the Petitioner.

8. Having heard learned counsel for the parties and considering the surrounding circumstances and 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 surety each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the 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.

(A.K. Mohapatra)
Judge