

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8420 of 2021

Kumar Jena

....

Petitioner

Mr.Jyotirmaya Sahoo, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Manoj Kumar Mohanty, ASC for State

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. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Kodala P.S. Case No.325 of 2021, corresponding to G.R. Case No.31 of 2021(N), pending in the file of learned Additional Sessions Judge, Chatrapur, for commission of alleged offences under Sections 20(b)(ii)(C)/25/29 of N.D.P.S. Act.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.
4. Learned counsel for the Petitioner submits Petitioner is languishing in jail custody since the date of his arrest. It is submitted that police after completion of investigation has filed charge-sheet. Learned counsel for the Petitioner submits that FIR was lodged on 03.07.2021, whereas police arrested the

present Petitioner on 02.08.2021 and recovered the contraband articles Ganja weighing 848.790 kgs. from a house during raid, which was taken on rent by the present Petitioner and others. At the moment, nobody was present at the spot, even nobody was arrested there. However one month after the seizure, police on enquiry came to know that the Petitioner and others had taken that house on rent which fact has been corroborated by the owner of the house. The further submission of learned counsel for the Petitioner that the alleged seizure of the contraband articles (Ganja) was not recovered from the exclusive and concisions possession of the present Petitioner, as such, Section 37 of the NDPS Act is not attracted to the case of the Petitioner. Further it is submitted that the Petitioner had no prior knowledge about the contraband articles in the house. Taking all these grounds in his favour, Petitioner prays for release on bail subject to any terms and conditions as deem fit and proper by this Hon'ble Court. It is also submitted that Petitioner has no criminal antecedents of similar nature.

5. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner. It is stated that a quantity of 848 kgs. 790 grams of contraband articles (Ganja) is a huge quantity, therefore, he prays that no leniency should be shown in view of the fact that such type of offences are increasing day by day in the State. However, he submits in the event of release, stringent conditions may be imposed on the Petitioner.

6. Having regard to the facts and circumstances of the case, considering the nature and gravity of offences alleged and the period of detention of the Petitioner and since the contraband articles were not recovered from the conscious possession of the Petitioner, Section 37 of the NDPS Act does not apply to the case of the Petitioner, in such view of the matter, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

- i) He shall not involve himself in any similar nature of offence particularly involving the offence under the NDPS Act;
- (ii) He shall appear before the trial court on each and every date as fixed by the court;
- (iii) He shall appear before the I.O. on every Sunday at 10 A.M. to 1.00 P.M. and report to the police;
- (iv) He shall not tamper with the prosecution evidence;
- (v) He shall not influence or threaten any prosecution witness and cooperate in the investigation;
- (vi) He shall provide his present address and mobile number to the I.O. and if any changes therein shall also be intimated to the I.O.;
- (vii) He shall not leave the jurisdiction of the court without special permission from the court; and

(viii) Violation of any of the above conditions shall entail cancellation of the bail.

7. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

8. With the above direction, the BLAPL is accordingly allowed.

9. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge

U.K.Sahoo

