

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2749 of 2022

Sukadev Pradhan

....

Petitioner

Mr. N. Panda, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S. Mishra, ASC

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

23.11.2022

Order
No.
01.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Mr. Panda, learned counsel for the petitioner submits that the petitioner is not directly involved with regard to contraband substance said to have been seized in connection with case. It is submitted that contraband Ganja was recovered from a place outside the house of the petitioner and from beneath the soil and on account of suspicion, he was entangled by the local police. It is further submitted that the FIR was lodged as a consequence whereof, after completion of investigation, chargesheet was filed against the petitioner, whereupon, the learned Special court took cognizance of the offence under Section 20(b)(ii)(C) of the NDPS Act which is unjustified.
3. Mr. Mishra, learned counsel for the State on the other hand submits that the recovery is with regard to commercial quantity of contraband Ganja and it has been from within the premises of the petitioner's house and therefore, he has been rightly implicated by

the local police and thereafter, chargesheeted for the alleged offence.

4. In course of hearing, Mr. Panda, learned counsel for the petitioner submits that the recovery is not at the instance of the petitioner but after a search conducted by the local police from a distance two metres from the wall of the house of the petitioner while being buried under the soil. Since such recovery was made not from the direct and conscious possession of the petitioner, Mr. Panda, learned counsel for the petitioner submits that if the Court is not inclined to interfere with the criminal proceeding at least it should direct the petitioner to surrender before the learned court below and released on bail. Mr. Mishra, learned counsel for the State, in response to the above submits that the petitioner had approached this Court for anticipatory bail but the same was refused.

5. In the meantime, the chargesheet is filed and the court has taken cognizance of the alleged offence against the petitioner. Having regard to the circumstances leading to the recovery of contraband Ganja recovery from a place outside the house of the petitioner, the Court is of the view that though, it is not inclined to interfere with the criminal proceeding which is under challenge, is of the view that he should be directed to surrender and allowed to go on bail with conditions which would serve the purpose. In other words, even though it relates to commercial quantity of Ganja but considering the peculiar facts and circumstances of the case and its recovery, this Court is of the opinion that the petitioner should be allowed to go on bail after surrender before the learned Special court.

6. Accordingly, it is ordered.

7. In the result, CRLMC stands allowed with a direction to the petitioner to surrender before the learned Sessions Judge-cum-Special Judge, Boudh on or before 9th December, 2022 in connection with Special Case No.22 of 2022 corresponding to Baunsuni P.S. Case No.49 of 2022 and in the event he surrenders within the stipulated time, the court shall release him on bail subject to such terms and conditions as deemed just and proper in the facts and circumstances of the case.

8. Urgent certified copy of this order be granted as per rules.

(R.K. Pattanaik)
Judge



