

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8499 of 2021

Mahadeb Thethua @ Mahadev ***Petitioner***
Mr. Bhabani Prasad Pradhan, Advocate

-versus-

State of Orissa ***Opposite Party***
Mr. K.K. Nayak, ASC for State

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
13.04.2022

Order No.

05. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. The case number reflected in order no.4 dated 18.02.2022 “BLAPL No.6159 of 2021” be corrected as “BLAPL No.8499 of 2021”
3. Learned counsel for the Petitioner files Surrender Certificate in Court today, which is taken on record.
4. On perusal of the said certificate, it is seen that after expiry of the period of interim bail, Petitioner surrendered before the learned trial court in C.T. Case No.361 of 2021.
5. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Manamunda P.S. Case No.105 of 2021, corresponding to C.T. Case No.361 of 2021,

pending in the file of learned District Judge-cum-Special Judge, Boudh, for commission of alleged offences under Sections 20(b)(ii)(C) of N.D.P.S. Act.

6. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.

7. The prosecution case, in a nutshell, is that on 04.08.2021, while on patrolling duty, the complainant Susmita Magar, S.I. of Police, Manamunda P.S. received information of transportation of contraband Ganja. So she along with her staff trapped the accused persons and found in between Jogindrapur Chhak to Dimirimunda village road, three unknown persons were coming in a Hyundai Verna Car bearing Regd. No.OD-02D-6396 from Dimirimunda side. Police detained them and upon search they found contraband Ganja of 40 Kgs. was kept inside the vehicle. On interrogation, they disclosed their identities as Mahadev Thetua, Nepala Meher and Hira Das. After observing all formalities under the NDPS Act, they have been sent to the judicial custody.

8. Learned counsel for the Petitioner submits that Petitioner is languishing in jail custody since the date of his arrest, i.e. 05.08.2021. The police after completion of investigation submitted charge-sheet against the Petitioner. It is submitted that the Petitioner is an innocent person, he has been falsely entangled in the case. The further submission is that since he is

a permanent resident of the locality, there is no chance of evading the trial of the case in the event of his release.

9. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner. He, however, submits that in the event of release, stringent conditions may be imposed on the accused person.

10. 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, 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 fortnight of the month, preferably on Sunday at 10 A.M. to 1.00 P.M. and report to the police, till conclusion of trial;
- (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.

11. 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.

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

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

(A.K. Mohapatra)
Judge