

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8542 of 2021

Ananda Mishra and others *Petitioners*
Mr. Partha Sarathi Nayak, Advocate
-versus-
State of Odisha *Opposite Party*
Mr. Manoj Kumar Mohanty, ASC for State

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
21.03.2022

Order No.

05. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Learned counsel for the Petitioners does not want to press this bail application in respect of Petitioner No.1. Accordingly, the bail application in respect of Petitioner No.1 is dismissed as not pressed. This bail application is confined to Petitioner Nos.2 3 and 4.
3. This is an application under Section 439 Cr.P.C. filed by the Petitioners for bail in connection with Chandrapur P.S. Case No.33 of 2021, corresponding to T.R. Case No.89 of 2021, pending in the file of learned Additional Sessions Judge-cum-Special Judge, Gunupur, Rayagada, for commission of alleged offences under Sections 20(b)(ii)(c)/25/29 of N.D.P.S. Act.
4. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.

5. The case of the prosecution, in a nutshell, is that on 01.09.2021 at 01.15 p.m. received information that Sunil Baliar with his associate Kapindra Muguli have hatched a conspiracy with some persons to procure Ganja near Raibiji village on Hanumantapur-Chandrapur road. Accordingly, he along with his staff conducted raid on the illegal contraband Ganja possession and transportation. After reaching at the spot i.e., at the bushy jungle situated about 10 to 20 meters from Raibiji Junction, the police encircled the spot and they had a close watch to the spot. They found some suspects were moving there. The police apprehended 5 persons and they noticed two numbers of plastic packets are stacked nearby and two numbers of motorcycles were also found at the spot. After weighment the first packet came to be 30 kgs. 300 gms. And the second packet also came to be 30 kgs. 300 gms, in total 60kgs. 600 gms. Accordingly, the informant returned to the Police Station with the seized articles and lodged the FIR against the Petitioners and others.

6. Learned counsel for the Petitioners submits three Petitioners are languishing in jail custody since the date of their arrest, i.e. 01.09.2021. It is submitted that police after completion of investigation has filed charge-sheet. It is submitted by learned counsel for the Petitioners that the alleged contraband articles were seized from the field where the same was concealed in a bushy jungle. The alleged seizure is not taken place from the conscious possession of the Petitioners,

therefore Section 34 is not attracted to the case of the Petitioners. He further submits that all the Petitioners belong to the local people hence there is no chance to evade the trial of the case in the event they are released on bail on such terms and conditions as deems just and proper.

7. Learned counsel for the State on the other hand submits that there is ample material on record and while not disputing the fact that the contraband articles were seized from the bushy jungle. He further submits that Petitioner nos.2, 3 and 4 have no criminal antecedents of similar nature.

8. 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 nos.2, 3 and 4, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) each with one local surety each for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

- i) They shall not involve themselves in any similar nature of offence particularly involving the offence under the NDPS Act;
- (ii) They shall appear before the trial court on each and every date as fixed by the court;
- (iii) They shall appear before the I.O. on every Sunday at 10 A.M. to 1.00 P.M. and report to the police, till conclusion of trial;

(iv) They shall not tamper with the prosecution evidence;

(v) They shall not influence or threaten any prosecution witness and cooperate in the investigation;

(vi) They shall provide their present address and mobile number to the I.O. and if any changes therein shall also be intimated to the I.O.;

(vii) They 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.

9. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner nos.2 and 3 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 nos.2 and 3 have no criminal antecedents.

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

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

(A.K. Mohapatra)
Judge