

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8623 of 2021

Dashrath Gouda

....

Petitioner

Ms. Mamata Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

28.03.2022

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 Special G.R. Case No.87 of 2021 arising out of Mathili P.S. Case No.133 of 2021 pending in the court of learned Sessions Judge-cum-Special Judge, Malkangiri for commission of offence punishable under Sections 20(b)(ii)(C)/27 of the N.D.P.S. Act.
5. The prosecution case is that on dated 04.09.2021 at about 5.30 P.M. when the police was performing the evening patrolling duty received informant that five persons were standing on the main road on N.H. 326 at Sangram Ghati near Durga Temple. Police went to the spot

at about 6.30 P.M. and found five persons were standing keeping one TVS Apache white colour Motor Cycle bearing Registration No.OD-30-C-7788 one of person fled away and police asked about the Motor Cycle and came to know that this belongs to the present petitioner and the two plastic sacks contains 38 Kgs. 600 grams of contraband ganja, which were marked as exhibit A and B and arrested the present petitioner.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 04.09.2021 and investigation of the case has been completed and charge-sheet has been submitted by the police. He further submits that the petitioner does not have any criminal antecedent of similar nature. 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. It is also submitted by learned counsel for the petitioner that the petitioner is the financier.

7. Mr. Mohanty, learned 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.

8. Having heard learned counsel for the parties and considering 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 one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to 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.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge