

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8691 of 2021

Debananda Bhuyan

....

Petitioner

Mr. Sarat Kumar Jena, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Manoj Kumar Mohanty, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

30.03.2022

Order No.

02. 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 Khallikote Excise Station P.R. No.33/2021-22, corresponding to 2(a) C.C. No.6 of 2021(N), pending in the file of learned Addl. Sessions Judge-cum-Special Judge, Khallikote for commission of alleged offences under Sections 20(b)(ii)(c) of N.D.P.S. Act.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.
4. The prosecution case, in brief, is that on 31.07.2021, the Informant, Officer-in-Charge, Khallikote Excise Station, Ganjam, while on duty saw an Auto-Rickshaw coming from Khallikote side. He detained the said Auto-Rickshaw, wherein driver and two other persons were sitting on the back side

holding a polythene bag. On being thorough searched, the contraband ganja articles were recovered which was about 32 kgs.. Then the said ganja was seized and the accused persons were arrested and subsequently forwarded to the court.

5. Learned counsel for the Petitioner submits that Petitioner is languishing in jail custody since the date of his arrest, i.e. 31.07.2021. The police after completion of investigation submitted charge-sheet against the Petitioner. The further submission was that Petitioner is the driver of the vehicle and he has no knowledge about the contraband articles. Therefore, it cannot be said that the contraband articles was recovered from the conscious possession of the Petitioner, whereas the same were kept near the legs of the two passengers, who sat in the backside of the auto-rickshaw. In the above circumstance, the present petitioner prays for grant of bail on such terms and conditions as deem just and proper.

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

7. 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;
- (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.

8. 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.

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

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

(A.K. Mohapatra)
Judge

U.K.Sahoo

