

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8803 of 2021

Hasan Sardar and another

Petitioners
Mr. J.K.Panda, Advocate

-versus-

State of Odisha

Opposite Party

Mr. K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

06.04.2022

Order No.

04.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel.
3. Perused the Case Diary, F.I.R. and the statements of the witnesses recorded under section 161 Cr.P.C.
4. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with Baunsuni P.S.Case No. 72 of 2021 corresponding to C.T.Case No.239 of 2021, pending in the Court of the learned District Judge-cum-Special Judge, Boudh for alleged commission of offence under Sections 20(b)(ii)(C) of the N.D.P.S.Act.
5. The prosecution case as revealed from the F.I.R. in short is that on getting information regarding transportation of ganja by some persons in a Mahindar Bolero Maxi Truck bearing registration No.WB-95-1694 coming from Paingalabeda side towards Boudh via

Sahajpal, the I.I.C. of Bausuni P.S. intercepted the said vehicle. On interrogation the driver of the vehicle disclosed his identity as Hasan Sadar, the present petitioner and also other culprits disclosed their identities. He seized the contraband ganja weighing 40 gms. 200 grams and the Bolero vehicle in presence of Executive Magistrate and other independent witnesses and arrested the accused persons .

6. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in jail custody since 29.05.2021 and after completion of investigation charge sheet has been filed. It is further submitted by the learned counsel for the Petitioner that the mandatory provisions of NDPS Act has not been complied with by the Investigating Officer. It is further submitted by the learned counsel for the Petitioner that in the event he will be released on bail he shall cooperate with the trial.

7. Learned Additional Standing Counsel 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. Moreover, the Petitioners belong to West Bengal.

8. Considering the nature of allegations made against the Petitioner and the period of custodial detention of the Petitioner, I am inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local solvent sureties for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions:

- i) he shall not indulge himself in any similar nature of offence.
- ii) shall appear before the trial court on each and every date fixed by the trial court till conclusion of trial.

- iii) shall not tamper with the prosecution evidence.
 - iv) shall not influence or threaten any prosecution witnesses while on bail.
 - v) he shall appear before the concerned Police Station once in a week preferably on Sunday in between 10 A.M. to 1 P.M. till conclusion of trial.
 - vi) he shall not leave the jurisdiction of the trial court without prior permission of the trial court.
 - vii) he shall provide the present address and mobile number to the local police station, in the event of any change in the address or mobile number, the same shall also be intimated to the local police.
 - vii) Violation of any of the terms and conditions shall entail cancellation of bail.
9. The trial court may impose any other condition(s) as deem fit and proper.
10. BLAPL is accordingly disposed of.
11. Issue urgent certified copy as per Rules.

RKS

(*A.K. Mohapatra*)
Judge