

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8959 of 2021

Ashok Tamarkar

....

Petitioner

Mr. Sudipto Panda, Advocate

-versus-

State of Odisha

....

Opp. Party

*Mr. Rajesh Tripathy,
Addl. Standing Counsel*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
08.07.2022**

Order No.

03. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 439 Cr.P.C. in connection Kundura P.S. Case No.0010 of 2020 corresponding to T.R. Case No.11 of 2020 pending in the Court of learned Sessions Judge –cum- Special Judge, Koraput, Jeypore for offence punishable under section 20(b)(ii)(C) of the N.D.P.S. Act.

The petitioner moved an application for bail before the Court of learned Addl. Sessions Judge –cum- Special Judge, Jeypore which was rejected on 11.08.2021.

It is not in dispute that the petitioner was taken into judicial custody in connection with this case on 07.02.2020. On 29.07.2020, a petition was filed by the

learned Special Public Prosecutor wherein the Investigating Officer prayed for extension of stipulated time for submission of charge sheet for a period of 180 days and the Court after hearing the learned Special Public Prosecutor and going through the petition, granted 30 days time with effect from 05.08.2020 to complete the investigation exercising the power under section 36 A (4) of the N.D.P.S. Act. It is the contention of the learned counsel for the petitioner that while granting such extension, neither the copy of the petition was served on the petitioner nor the counsel who was representing him in the trial Court and no opportunity of hearing was provided either to the petitioner or his counsel and in fact the order of extension was passed on the very day the petition was filed for extending the period of investigation.

Learned counsel for the petitioner contended that in view the ratio laid down by this Court in the case of **Lambodar Bag -Vrs.- State of Orissa reported in reported in (2018) 71 Orissa Criminal Reports 31,** such extension is illegal and therefore, the petitioner is entitled to be released on bail.

Learned counsel for the State after going through the order sheet of the learned trial Court fairly submitted that the ratio laid down in the case of **Lambodar Bag** (supra) is squarely applicable in this case.

Considering the submission made by the learned counsel for the respective parties, since the extension has been granted by the learned trial Court to the Investigating Officer to complete the investigation without

service of copy of the petition either on the petitioner or his counsel and without giving them opportunity of hearing, keeping in view, the ratio laid down in the case of **Lambodar Bag** (supra), I am inclined to release the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.2,00,000/- (rupees two lakhs only) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper with further condition that the petitioner shall appear before the learned trial Court on each date when the case would be posted for trial.

Violation of any terms and conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

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

(**S.K. Sahoo**)
Judge