

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8984 of 2021

Sunil Nahak

....

Petitioner

Mr. S.S. Ray-2, Advocate

-versus-

State of Odisha

....

Opposite Party

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

07.09.2022

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 G.R. Case No.11 of 2021(N) arising out of Aska P.S. Case No.350 of 2021 pending in the court of learned Additional Sessions Judge-cum-Special Judge Court, Aska, Ganjam for commission of offence punishable under Sections 20(b)(ii)(C)/29 of the N.D.P.S. Act.
5. The prosecution case, in brief, is that on 08.06.2021 one

Biswajit Nayak, S.I. of Aska P.S. lodged a written report before the IIC, Aska P.S. to the effect that on 08.06.2021 at about 5.00 A.M. while he along with other P.s. staffs were performing block/MV checking duty at Biju Pattanaik Chowk, they noticed one white colour numberless Sujuki S-Presso Car and another numberless black colour motorcycle were proceeding towards Kainphulia from Bhanjanagar side in suspicious manner in high speed. The three occupants in the motorcycle did not stop and fled away. Then they cordoned the car and found four occupants inside the car including driver and suspected the car loaded with contraband ganja. On being asked the accused persons disclosed their names, found possession of 102.870 Kgs. Ganja in four Jerry bags, did not produce any document for such possession and transportation of such contraband ganja and disclosed that they have procured ganja from Kalinga Junction to Kodal. Thereafter, maintaining all formalities with respect of search and seizure, the informant seized the articles and submitted the report. Hence this case.

6. It is submitted by learned counsel for the petitioner that the petitioner is young boy aged about 18 years old and he was the occupant of the seized vehicle and he had no knowledge about the contraband articles were on the said vehicle and that he is in custody since 08.06.2021 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. Learned counsel for the petitioner submits that on similar footing with the petitioner, another co-accused has already been

released on bail by this Court in BLAPL No.8545 of 2021 by order dated 11.05.2022.

7. 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 of similar nature, this bail order shall automatically stand revoked.

11. The Bail Application is accordingly disposed of.

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



RKS