

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9461 of 2021

Mrutunjaya Pradhan

.... ***Petitioner***
Mr.S.K.Joshi, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

20.04.2022

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. Learned counsel for the Petitioner has filed the surrender certificate which reveals that the Petitioner has surrendered before the learned court below on 24.02.2022. Perused the Case Diary, statements of witnesses as well as relevant materials.
4. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with Baideswar P.S.Case No.30 of 2018 corresponding to Special G.R.No.03 of 2018, pending in the Court of the learned Sessions Judge-cum-Special Judge, Cuttack for alleged commission of offence under Sections 20(b)(iii)(B) of the N.D.P.S.Act.
5. That the prosecution case, in brief as revealed from the F.I.R. is that on 05.04.2018 at about 8.30 A.M. on getting reliable information the complainant proceeded to the spot along with his Staff. While reaching at Khajuripada village found two car running

away towards Khajuripada Megha Forest seeing the Police. Since they checked both the vehicles for which the vehicles could not move further and dashed in the rocky surface. The driver and the occupants of the vehicles fled away leaving both the cars at the spot, but one female occupant could not move further and concealed her presence near bushy forest. She disclosed her identity and after thorough interrogation she further disclosed that she along with her husband Mrutunjaya Pradhan owner of the vehicle and other one was of her locality were coming to Baideswar to sale ganja in both the vehicle. Subsequently the vehicle was searched in presence of the Executive Magistrate and found two packets of ganja packed in polythene jery weighing about 2 kg. and 2.150 kg. respectively.

6. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in custody since 25.09.2021 and in the meantime investigation has been completed and final charge sheet has been filed. The Petitioner was released for one month on interim bail by this Court. It is further submitted by the learned counsel for the Petitioner that the quantity seized from the possession of the Petitioner is less than the commercial quantity, therefore Section 37 of the NDPS Act is not attracted in the present case. In such view of the matter the Petitioner prays for release of the Petitioner on bail.

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.

7. Having heard learned counsel for the parties, considering the fact that no contraband articles has been seized from the conscious and exclusive possession of 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 one local solvent surety 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) Violation of any of the terms and conditions shall entail cancellation of bail.

8. The trial court may impose any other condition(s) as deem fit and proper.

9. 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.

10. BLAPL is accordingly disposed of.

11. Issue urgent certified copy as per Rules.

