

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9472 of 2021

Tapas Mondal

.... **Petitioner**
Mr. A.S. Paul, Advocate

-Versus-

State of Odisha

Opposite Party
Mr.S.S.Mohapatra , ASC

CORAM:
JUSTICE R.K.PATTANAIK

Order No.

ORDER
12.01.2021

1. 1. This matter is taken up through video conferencing mode.
2. 2. Heard learned counsel for the petitioner and learned Addl. Standing Counsel for the State.
3. 3. This is an application under Section 439 Cr.P.C. for grant of bail to the petitioner in connection with Bharatpur P.S. Case No.353 of 2021 corresponding to T.R. Case No. 444 of 2021 registered under Section(s) 20(b)(ii)(C) of the NDPS Act pending in the court of learned District & Sessions Judge, Khurda at Bhubaneswar on the grounds stated therein.
3. 3. Perused the F.I.R. i.e. Annexure-1 and the impugned order dated 22.10.2021 as at Annexure-2.
4. 4. Gone through the contents of the F.I.R. which reveals that on the date of occurrence, the informant and other officials after receiving information from reliable source, rushed to the spot which is Baramunda Bus stand of Bhubaneswar town and then

intercepted the petitioner and two others and thereafter, the bags which were possessed by them, were searched and in course, a total quantity of 22 Kgs. 250 grams of contraband ganja was recovered which was seized thereafter. In that connection, after Bharatpur P.S. Case No. 353 of 2021 was registered, the petitioner and two other accused persons were forwarded.

5. Learned counsel for the petitioner submits that the alleged recovery was shown from a public place which is a bus stand but with the allegations to the effect that the accused persons were found sitting on the bag while being intercepted by the local police. It is further submitted that the contraband substance is slightly above the commercial quantity and the petitioner has no criminal antecedent, considering which, he should be released on bail with any conditions as deemed just and proper which is objected to by the learned counsel for the State on the ground that he is an outsider from the State of West Bengal in the event his release might not turn up for the trial.

6. From the F.I.R., three accused persons are shown to be involved and the petitioner was one among them. It is mentioned that the petitioner and two others were at the bus stand and the local police arrived and they were sitting over bag which was searched and then the alleged recovery of contraband ganja was made. It is submitted by the learned counsel for the petitioner that the fact of recovery from public place should be considered as the accused was waiting to board a bus. The contraband ganja is admittedly commercial quantity. It is submitted that the petitioner does not have any criminal track record. The investigation is currently in progress.

7. Having regard to the above facts, period of detention vis-à-vis the petitioner which is from 7th October, 2021 and recording the submission of the learned counsel for the petitioner that the accused is having no previous criminal antecedent of similar nature and the fact that such recovery has been made from a public place, the Court is of the considered view that the petitioner should be directed to go on bail with stringent conditions and accordingly, it is ordered.

8. In the result, it is directed that the petitioner be released on bail on furnishing a bail bond of Rs.40,000/- (rupees forty thousand) with two solvent sureties, one among whom, shall be a local resident of Bhubaneswar, for the like amount each to the satisfaction of the learned court below in seisin over the matter with conditions that he shall not involve himself in any such criminal activities, while on bail; and shall attend the P.S. once in a month and report the I.O. for the purpose of investigation and continue to do so till it is over.

9. The BLAPL is accordingly disposed of.

10. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No. 4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos. 5143 and 515 dated 7th January, 2022.

(R.K.Pattanaik)
Judge

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