

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9484 of 2021

Sunil Nayak

.... ***Petitioner***
Mr.A.R.Panda, 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.

02

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, 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 Phiringia P.S.Case No.37 of 2021 corresponding to C.T.Case No.28 of 2021, pending in the Court of the learned District & Sessions Judge-cum-Special Judge, Phulbani for alleged commission of offence under Sections 20(b)(ii)(C)/25/29 of the N.D.P.S.Act.
5. That the prosecution case, in brief as revealed from the F.I.R. is that on 27.03.2021 the informant along with his staff went to Terapalli Chhak as per the direction of the Inspector-in-Charge of Phiringia P.S. to verify the information about illegal transportation of ganja by two persons with one white colour TATA pick up Van bearing RegistrationNo.OD-02-BL-4378. After reaching the spot the

informant found that the above vehicle was coming in high speed, on suspicion the informant gave a signal to stop the same. Thereafter the informant could notice that including the driver two persons were inside the said vehicle. On being asked they disclosed their names and identity and further on being search from the Dala of the said vehicle the informant found one plastic jari bag which as contained 35 kg 300 grams of ganja. Thereafter the informant seized the vehicle as well as the contraband article.

6. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in custody since 28.03.2021 and in the meantime investigation has been completed and final charge sheet has been filed. It is further submitted by the learned counsel for the Petitioner that the Petitioner was the occupant of the vehicle in question. He also submits that nothing contraband article has been seized from the exclusive and conscious possession of the Petitioner. He also submits that the Petitioner has no nexus with the illegal transportation of ganja. Learned counsel for the Petitioner further submits that since the Petitioner is permanently residing under Phiringia Police Station there is no chance of his absconding or fleeing from the hands of justice and he undertakes to appear before the trial court on each date of posting.

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 fortnight 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.

