

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9587 of 2021

Bijay Kumar Patra

....

Petitioner

Mr. K. Ch. Rajgurumohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

06.07.2022

Order No.

- 05.
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 T.R. Case No.403 of 2020 arising out of Tamando P.S. Case No.133 of 2020 pending in the court of learned 3rd Additional Sessions Judge, Bhubaneswar for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act.
 5. The prosecution case, in brief, is that on 19.10.2020 while performing evening patrolling duty at P.S. area, the informant received informant from DCO, S.I. R. Pradhan that one car was

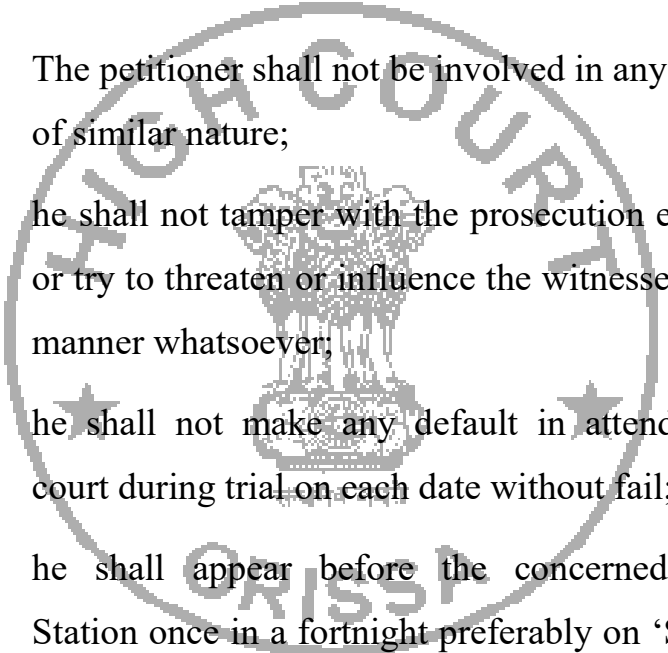
parked near Behera Dhaba in a suspicious condition. On getting the information, the informant and staff rushed to the spot and found one white colour Tata Indigo bearing Registration No.OD-05-M-1035 was parked there and the driver and passenger were sitting inside it. Seeing police party, the driver tried to escape but police caught hold of the driver and the passenger at the spot. The said persons disclosed their names and the team conducted search and seized one quintal of Ganja from the possession of the accused person and the co-accused persons, kept in four plastic jari basta from inside the boot space of the vehicle. Each jari basta contained 25 Kgs. of contraband Ganja. On interrogation, the accused persons confessed that knowingly, they were transporting the said contraband articles to their customers. Hence, this case.

6. It is submitted by learned counsel for the petitioner that the petitioner is a passenger 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 20.10.2020 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.8739 of 2021 by order dated 18.02.2022. It is also submits that Section 37 of the N.D.P.S. Act is not attracted against the petitioner.

7. Leaned 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 and section 37 of the NDPS Act is not attracted, 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 :-

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- 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 fortnight 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, this bail order shall automatically stand revoked.

11. The Bail Application is accordingly disposed of.

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

(A.K. Mohapatra)
Judge

Jagabandhu

