

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9596 of 2021

Papun Digal

....

Petitioner

Mr. S.K. Dwibedi, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.N. Das, Additional Standing Counsel

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

10.01.2022

Order
No.

01. 1. This matter is taken up through video conferencing mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. This is an application under Section 439 of Cr.P.C for grant of bail to the petitioner in connection with P.R. No.18 of 2020-21 corresponding to 2(a) CC Case No.5 of 2021 pending in the file of learned Special Judge, Phulbani.
4. Perused the PR i.e. Annexure-1 and impugned order dated 28.10.2021 as at Annexure-2 besides other documents, such as, statements of witnesses recorded under Section 161 Cr.P.C. and final PR i.e. Annexure-4.
5. Learned counsel for the petitioner submits that the recovery and seizure of 21.100 kgs of contraband ganja is shown against another accused, who was driver of the vehicle in question which was intercepted by the Excise police and not from the accused and having regard to the above fact and submission of final PR under

Annexure-4, the petitioner should be enlarged on bail with any conditions.

6. Learned counsel for the State submits that it is a commercial quantity of contraband ganja stated to have been recovered, of course, not from the petitioner but his involvement was revealed during the investigation and therefore, he should not be enlarged on bail as has been prayed for.

7. On perusal of Annexure-1 it is made to suggest that the Excise police officials of were on duty at the relevant point of time and on the date of occurrence 07.02.2021 had intercepted the vehicle which was found to be travelling suspiciously and on being detained, the driver found to be in possession of contraband ganja. Admittedly, it is more than commercial quantity of ganja said to have been recovered. As such, the recovery is shown against driver of the vehicle, namely, Dipu Digal. The claim of the Excise police is that such transportation was at the behest of the petitioner which is contradicted by the learned counsel for the petitioner. It is also contended that the petitioner does not have previous criminal antecedent being involved in offences of similar nature. It is informed that the driver-accused is in judicial custody.

8. Having regard to the above facts and submission of final PR, as copy of the same is made available to the Court under Annexure-4; period of detention of the accused since the date of arrest and the fact that the alleged recovery has been shown not from him but from the accused driver of the vehicle which was intercepted by the Excise police, the Court is of the considered view that the petitioner should be enlarged on bail with conditions and accordingly, it is ordered.

9. In the result, the petitioner is allowed to go on bail on furnishing a bail bond of Rs.30,000/-(rupees thirty thousand) with one solvent surety for the like amount to the satisfaction of the learned court below in seisin over the matter, who shall impose such other conditions, as deemed just and proper, in the facts and circumstances.

10. The BLAPL is disposed of.

11. As the restrictions due to the COVID-19 situation are continuing, learned counsel for the parties may utilize a soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed, vide Court's Notice No.4587, dated 25 March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(R.K. Pattanaik)
Judge