

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9950 of 2021

Suresh Bisoi

.... ***Petitioner***
M/s.P.K.Sahoo, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.P.K.Patnaik, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

12.10.2022

Order No.

- 09.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Kundura P.S. Case No.0043 of 2021 corresponding to T.R. Case No.33 of 2021 pending in the Court of learned Sessions Judge-cum-Special Judge, Jeypore for commission of offence punishable U/Ss. 20(b)(ii)(C) of NDPS Act on the allegation of transporting 445 Kg. 800 grams of contraband Ganja in a Bolero vehicle bearing Registration No. OD-O5-M-0766.
 3. In the course of hearing of the bail application, Mr.P.K.Sahoo, learned counsel for the petitioner submits that the petitioner is no way connected with the transportation of contraband Ganja, rather he is an innocent commuter on the road at the relevant time and he was falsely implicated in this case by the police. It is also submitted that neither the petitioner was transporting any contraband Ganaja nor was he in conscious possession of any contraband articles and the petitioner, therefore, having detained in custody since 09.05.2021 without committing any offence may kindly be granted bail.
 4. On contrary, Mr. P.K.Patnaik, learned counsel for the State in opposing the bail application of the petitioner submits that the petitioner was caught red-handed at the spot while transporting commercial quantity

of contraband Ganja in a Bolero vehicle and Section 37 of N.D.P.S. Act would operate as a bar for release of the petitioner on bail and the petitioner, therefore, cannot be granted bail.

5. After having considered the rival submissions upon reference to the allegations on record, it appears that the petitioner was arrested on the allegation of committing offence U/Ss. 20(b)(ii)(C) of NDPS Act for transporting 445 Kgs. 800 grams contraband Ganja in a Bolero vehicle and he was allegedly apprehended by the police from the spot. The quantity of Ganja recovered and seized in this case is definitely coming under the commercial quantity but Section 37 of the N.D.P.S. Act creates an embargo for release of person accused of offences involving commercial quantity unless the twin conditions mentioned therein are fulfilled.

6. Considering the nature and the gravity of the offence and taking into consideration the transportation of 445 Kgs. 800 grams of contraband Ganja in a Bolero vehicle in which the petitioner was allegedly travelling and keeping in view the law laid down by the Apex Court in *Narcotics Control Bureau Vrs. Mohit Agarwal; 2022 SCC Online SC 891*, this Court is not inclined to grant bail to the petitioner. Accordingly, the prayer for bail of the petitioner stands rejected.

7. Trial be expedited in this case in view of such submission by learned counsel for the petitioner.

8. Accordingly, the BLAPL stands disposed of.

9. Urgent certified copy of the order be granted on proper application.