

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9145 of 2020

Medana Digal

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

-versus-

State of Odisha

.... ***Opposite Party***
Mr. M.K.Mohanty,ASC

CORAM:
THE JUSTICE S. K. PANIGRAHI

Order No.

ORDER
07.01.2022

06.

1. This matter is taken up through virtual/physical mode.
2. The petitioner being in custody in connection with C.T. Case No. 79 of 2020 arising out of Gochhapada P.S. Case No.90 of 2020 pending in the Court of learned District & Sessions Judge-cum-Special Judge, Phulbani for commission of offences under Sections 20(b)(ii)(C) of the N.D.P.S. Act, has filed this application under Section 439 of CrPC for his release on bail.
3. The case of the prosecution, in brief, is that on 18.11.2020 while the informant along with his staff were performing patrolling duty, got reliable information about the transportation of contraband 'ganja' and proceeded to the spot. They detained a motor cycle rider from whom a jari bag tied to his motor cycle containing 32 Kgs 500 grams was recovered. They seized the contraband articles along with the motor cycle. Thereafter the petitioner was arrested and forwarded to the Court.

4. Learned counsel for the petitioner submits that there is a some infirmities in the prosecution report as submitted by the raiding team. Nothing has been seized from his conscious possession. The contraband articles have been recovered from an abandoned place near the road side. Since the petitioner was standing nearby area, the local Police on suspicion nabbed him. So, the question of bar under Section 37 of the N.D.P.S. Act does not arise. Moreover, the investigation has been completed and charge sheet has been submitted. There is no likelihood of commencement of trial in near future because of intervening pandemic. He has been languishing in jail custody since 19.11.2020.

5. Learned counsel for the State vehemently opposed the bail application.

6. Considering the submissions made, facts and circumstances of the case as well as period of detention without trial, it is directed that the petitioner be released on bail in the aforesaid case on some stringent terms and conditions as deemed just and proper by the learned court in seisin over the matter with further conditions that:-

- i. the petitioner shall appear before the learned trial court on each date of posting of the case;
- ii. he shall not engage in such activities in future and
- iii. he shall not tamper with the evidence of the prosecution witnesses in any manner.

7. Violation of any of the conditions shall entail cancellation of the bail.

8. The BLAPL is accordingly disposed of.
9. Issue urgent certified copy of the order as per Rules.

(S. K. Panigrahi)
Judge

LB

