

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.10447 OF 2021

Bikash Ranja Dash

....

Petitioner

Mr.Sitikant Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr.D.R. Parida, ASC

CORAM:

MR. JUSTICE D.DASH

ORDER

05.05.2022

Order No.

02.

1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
2. The vakalatnama filed by Mr.Sitikant Mishra, leaned counsel for the Petitioner in Court, is taken on record.
3. This is the second journey of the Petitioner, who is in custody in connection with Phiringia P.S. Case No.73 of 2021 corresponding to C.T.Case No.46 of 2021 pending on the file of learned Sessions Judge-cum-Special Judge, Phulbani, running for the alleged commission of offence under section 20(b)(ii)(C)/25/29 of the NDPS Act, in filing this application under section 439, Cr.P.C., for his release on bail.
3. Learned counsel for the Petitioner submits that this Petitioner being arrested in the case on the allegation that he was involved in transportation of 30 Kgs. & 300 grams of ganja, is in custody since 02.07.2021. He further submits that this Petitioner was an innocent traveler in the vehicle wherein the driver-cum-owner of the vehicle was very much present and

he too has been arrested in the case and in custody. It is submitted that the Petitioner has no such antecedents regarding his involvement in commission of similar type of offences and the facts and circumstances emanating from the materials collected in course of investigation, which is now complete, lead to show that the Petitioner has been a victim of the circumstance and had no knowledge about the keeping of ganja in the vehicle. In view of all these above, when there remains no scope on the part of the Petitioner to flee from justice and the question of tampering the evidence here does not arise, the bar contained under section 37 of the N.D.P.S. Act at this stage does not stand on the way of reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned counsel for the State opposes the move. According to him, the stage is too premature to take a view that the petitioner had no knowledge about the keeping or carrying of ganja in the said vehicle. He, however, does not dispute that the owner of the vehicle was on the driver seat of the vehicle.

5. Taking into account the submissions made; further keeping in view the surrounding circumstances especially, the period of detention of the Petitioner in custody; while being inclined to reconsider the prayer for grant bail to the Petitioner in the aforesaid case, it is directed that the Petitioner be released on bail on such terms and conditions as deemed just and proper by the Court in seisin of the case with further conditions that he shall appear in person before the Court in seisin of the case on each and every date of posting of the case

till conclusion of the trial shall not leave the jurisdiction of the Court in seisin of the case without prior permission.

Violation of any of the condition(s) shall entail cancellation of bail.

6. The BLAPL is accordingly disposed of.

Issue urgent certified copy as per rules.

**(D. Dash),
Judge.**

Basu

