

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.10449 OF 2021

Bihari Pradhan

....

Petitioner

Mr. G. Mishra, Senior Advocate
A. Dash, Advocate

-versus-

State of Odisha

....

Opposite Party

Miss. Samapika Mishra, ASC.

CORAM:

MR. JUSTICE D.DASH

ORDER

25.01.2022

Order No.

02. 1. This matter is taken up by video conferencing mode.
2. The Petitioner being in custody in connection with Paikamal P.R. No.55/2021-22 dated 24.08.2021 corresponding to Spl. G.R. Case No.74 of 2021 on the file of the learned Additional Sessions Judge, Padampur running for commission of offence under section 20(b)(ii)(C) of the NDPS Act, has filed this application under section 439 of the Cr.P.C. for his release on bail.
3. Mr. G. Mishra, learned Senior Counsel for the Petitioner submits that the Petitioner has been implicated in the case on the allegation that he was in possession of 23 kgs of contraband ganja. He further submits that when the bag was lying on the side of the road being left by someone at the sight of the Excise Officials, since this Petitioner was then a passer-by, he has been falsely attributed as to have been carrying the

said bag. It is also submitted that genuine doubt arises as to the total quantity of ganja as shown to have been seized from the bag as is evident from the prosecution version that there were seeds, leaves too. It is also submitted that under the circumstance the measurement has been made, the possibility of error in the said weighing is also not altogether ruled out. He submits that as the Petitioner is facing a case of similar nature and therein, he being on bail is attending the trial, this prosecution has been launched against him merely doubting the connection of this Petitioner with the bag. In view of all these above, according to him, at this stage, the bar contained under Section-37 of the NDPS Act does not stand on the way of grant of bail to the Petitioner and as there remains no scope on his part to flee from justice and tamper the evidence; he urges for grant of bail to this Petitioner.

4. Learned counsel for the State opposes the move in view of the quantity of ganja seized in further citing the bar contained in section 37 of the NDPS Act.

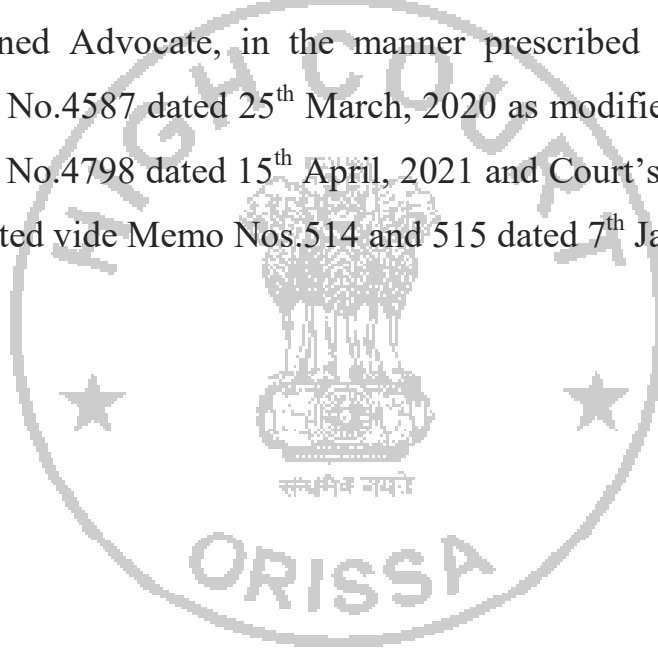
5. Considering the submissions made; further keeping in view the materials on records and the quantity of contraband ganja said to have been seized as those stand against the Petitioner with other surrounding circumstances including the period of detention of the Petitioner in custody; it is directed that the Petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that he will appear before the court in seisin of the case on each date of

posting of the case till conclusion of trial and will not indulge himself in commission of similar activity.

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

5. The BLAPL is accordingly disposed of.

As the restrictions due to resurgence of COVID-19 situation are continuing, learned Counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587 dated 25th 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.



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

Himansu