

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11622 of 2022

Arjun Kumar Jena

....

Petitioner

Mr. Anirudha Das, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. P.K. Rout, AGA

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

15.12.2022

Order No.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the petitioner and learned counsel for the State. Perused the case diary as well as materials placed before this Court.
3. The present bail application has been filed challenging the order dated 21.11.2022 passed by the learned Additional Sessions Judge, Nayagarh in T.R. No.11 of 2022, arising out of Chandpur P.S. Case No.114 of 2021, corresponding to Spl. G.R. No.104 of 2021. The Petitioner is involved in commission of an offence under Sections 20(b)(ii)(C) and 29 of the N.D.P.S. Act, 1985 read with Section 34 of the I.P.C.
4. The prosecution case, in short, is that on 10.08.2021 at about 10.15 A.M., the informant received a reliable information that the present Petitioner along with others are moving near Raipada Chhak with a Honda City vehicle. He was also informed that they were carrying contraband articles in the said vehicle. Thereafter, the informant proceeded to the spot. It is alleged that during

interrogation, the Petitioner has confessed about the alleged commission of crime. Accordingly, F.I.R. was lodged and investigation started.

5. It is submitted by the learned counsel for the Petitioner that in the meantime, the investigation has been completed and charge sheeted has been submitted. The Petitioner is in custody since 11.08.2021 and since the charge sheet has been filed, there is no chance of tampering with the prosecution evidence. He further contended that most of the witnesses are official witnesses. He further submitted that the Petitioner is a driver of the vehicle and he has no knowledge about the contraband Ganja which was kept in the dickey of the vehicle. He further submitted that the Petitioner does not have similar criminal antecedent and that in the event of Petitioner release on bail by this Court, the Petitioner shall abide by any terms and conditions imposed by this Court.

6. Learned Additional Government Advocate appearing for the State-Opposite Party submits that the Petitioner was arrested from the spot upon receiving information from the reliable source, therefore, involvement of the Petitioner in the alleged crime cannot be ruled out and with regard to conscious possession of the contraband article, learned Additional Government Advocate appearing for the State-Opposite Party submits that same can be proved in course of trial and not at the stage of bail. He further contended that the case of illegal trafficking of contraband Ganja is in rise in the State of Odisha now-a-days. Therefore, no leniency to be shown to the person who is an accused in such crime. As such, he prays for rejection of the bail application of the Petitioner.

7. At this juncture, learned counsel for the Petitioner submits that

earlier the Petitioner has approached this Court vide BLAPL No.10698 of 2021 for his release on bail in connection with the present case and this Court vide order dated 13.07.2022 permitted the Petitioner to withdraw the bail application to approach the court below afresh in the event the trial is not concluded within a period of three months. The Petitioner again approached this Court by filing BLAPL No.9981 of 2022 which was also permitted to withdraw with liberty to approach the court below once again. Thereafter, the trial court rejected the bail of the Petitioner vide order dated 21.11.2022. Accordingly, the Petitioner has filed the present bail application.

8. Upon hearing the learned counsel for the parties and after a careful consideration of the factual background of the case and also taking into consideration the period of custodial detention of the Petitioner, so also the fact that the Petitioner is a driver of the vehicle in question, this Court is inclined to release the Petitioner on bail.

9. Hence, it is directed that the Petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000/-(Rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter subject to conditions that :-

- (i) The Petitioner shall not be involved in any offence of similar nature;
- (ii) he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;
- (iii) he shall not make any default in attending the court during trial;

- (iv) he shall appear before the concerned Police Station once in a fortnight preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of trial; and
- (v) he shall not leave the jurisdiction of the Court in seisin over the matter without prior permission of the Court in seisin over the matter.

Violation of any of the terms and conditions shall entail cancellation of bail.

10. It is open for the Court in seisin over the matter to impose any other conditions as may be deemed just and proper.

11. It is further directed that the bail granted to the Petitioner is subject to the condition that the court below shall verify whether the Petitioner has any criminal antecedent of similar nature. In the event it is found that the Petitioner has any criminal antecedent, this bail order shall automatically stand revoked.

12. It is made clear that if the Petitioner fails to attend the court on the date fixed on a single occasion, this order shall stand automatically revoked and the court below is at liberty to issue N.B.W. against the Petitioner forthwith.

13. The BLAPL is, accordingly, disposed of.

14. Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge