

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10631 of 2021

Dukhishyam Mallick

.... ***Petitioner***
Mr. U. Barik, *Advocate*

-versus-

State of Odisha

.... ***Opp. Party***
Mr. S.S. Mohapatra, *A.S.C.*

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

21.01.2022

Order No.

01.

1. This matter is taken up through Video Conferencing Mode.
2. Heard Mr. U. Barik, learned counsel for the Petitioner and Mr. S.S. Mohapatra, learned counsel for the State. Perused the F.I.R., Case Diary and other relevant documents.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in C.T. Case No.51 of 2020 corresponding to Balliguda P.S. Case No.172 of 2020 pending in the court of learned Special Judge-cum-A.D.J., Balliguda for commission of offence punishable under Sections 20(b)(ii)(C)/25/29 of the N.D.P.S. Act.
5. It is alleged that on 26.09.2020 at about 9.00 A.M. S.I. of Police Balliguda P.S. while performing his patrolling duty came to know that a white colour car bearing registration No.RJ-11-CA-3198 was transporting ganja along with accused persons. Police detained

the vehicle along with accused persons and recovered 30 Kgs. 900 grams contraband ganja from the possession of the accused persons without any valid licence or authority.

6. It is submitted by learned counsel for the Petitioner that three persons were traveling in a car two bags containing 15 Kgs. each were seized from the possession of the accused persons. Taking into consideration that the present petitioner was carrying one bag, the same does not exceed the commercial quantity, as such the bar of Section 37 of the N.D.P.S. Act shall not apply to the facts of the present case. It is further submits that the Petitioner does not have any criminal antecedent.

7. Learned counsel for the State vehemently opposes the prayer for bail of the Petitioner and submits that the quantity seized is more than commercial quantity, which bar under Section 37 of the N.D.P.S. Act.

8. Having heard learned counsel for the parties and considering the period of detention of the Petitioner and the bar under Section 37 of the N.D.P.S. Act would not be attracted against the Petitioner, it is directed that let the Petitioner be released on bail by furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) with two local solvent sureties each for the like amount to satisfaction of the learned court in seisin over the matter subject to conditions that the Petitioner shall not get involved in any offence of similar nature while he is on bail, he shall not tamper with the prosecution evidence in any manner whatsoever and shall appear in court during trial on each and every date without fail. Violation of any of the terms and conditions shall entail cancellation of bail granted hereby

9. It is open for the court in seisin over the matter to impose any

conditions as may deem just and proper.

10. It is further directed that the bail granted to the Petitioner is subject to the condition that learned court below shall verify whether the Petitioner has any criminal antecedents. In the event it is found that the Petitioner has any criminal antecedents, this bail order shall automatically stands revoked.

11. The Bail Application is accordingly allowed.

12. As the restrictions due to resurgence of COVID -19 situation are continuing, learned counsel for the parties may utilize a print out 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 Office Order dated 7th January, 2022.

Jagabandhu

