

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.10659 OF 2021

Suryakanta @ Surjyakanta ***Petitioner***
Mansingh @ Pinu

Mr. Samgram Kumar Das, Advocate

-versus-

State of Odisha ***Opposite Party***
Mr. D.R. Parida, ASC

CORAM:
MR. JUSTICE D.DASH

ORDER
09.05.2022

Order No.

- 02.
1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
 2. This the successive journey of this Petitioner, who is in custody in connection with Khandagiri P.S. Case No.140 of 2018 corresponding to T.R. Case No.209 of 2018 on the file of learned 3rd Addl. Sessions Judge, Bhubaneswar, running for alleged commission of offence under Section-20(b)(ii)(C) of the NDPS Act, in filing this application under Section-439 of the Cr.P.C. for his release on bail.
 3. Learned Counsel for the Petitioner submits that on the allegation that this Petitioner was involved in transportation of 148 kgs of ganga in the seized vehicle, he has been in custody since 04.04.2018 when the trial is not expected to be completed so soon. He further submits that even accepting the prosecution version when the owner of the vehicle was very much present

at the relevant time of interception and managed to fled away from the spot and he till now has not been apprehended, under the existing situation further detention of the Petitioner in custody would not be in the interest of justice and is not going to serve any useful purpose as there remains no scope on his part to flee from justice and the question of tampering the evidence does not arise. In view of all these above, he urges for reconsideration of the prayer for bail to the Petitioner as, according to him, at this stage the bar contained under section 37 of the NDPS Act does not stand on the way.

4. Learned Counsel for the State opposes the move in view of the quantity of contraband seized from the vehicle. He further submits that even though it is said that the owner of the vehicle was present in the vehicle, the Petitioner being the driver cannot escape from the criminal liability for the seizure of the contraband from the vehicle as he too has to be attributed with the knowledge of keeping of such contraband and carrying the same.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner with other surrounding circumstances including the period of detention of the Petitioner in custody and on going through the order passed by the learned 3rd Addl. Sessions Judge; while being inclined to reconsider the prayer for grant of bail to the Petitioner, 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 is seisin of the case with further conditions that:-

1. he will appear in person before the Court in seisin of the case on each date of posting of the case without fail;
 2. will not indulge himself in commission similar type of offences; and
 3. will appear before the IIC, Khandagiri P.S. every Monday in between 10 am to 2 pm till conclusion of the trial.
6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

Himansu

