

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11057 of 2021

Satyabrata Sahoo

....

Petitioner

M/s. H.N. Mohapatra, Advocate

-versus-

State of Odisha

....

Opp. Party

M/s. D. Nayak, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

23.08.2022

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Padmapur P.S. Case No.20 of 2021 corresponding to T.R. Case No.45 of 2021 pending in the Court of learned Additional Sessions Judge-cum-Special Judge, Gunupur for commission of offences punishable under Sections 20(b)(ii)(c)/27(A)/29 of NDPS Act for possessing and transporting 560 Kgs and 820 grams of contraband ganja in a truck.
 3. In course of hearing of the bail application, learned counsel for the Petitioner submits that the Petitioner is the driver of the alleged vehicle in which transportation of ganja has been alleged and out of two co-accused persons, one of the co-accused namely, Lokanath @ Lulu Sahu has been granted bail by this Court in BLAPL No.3687 of 2020 and therefore, he prays the principle of parity be extended to the Petitioner to release him on bail.
 4. On the contrary, learned counsel for the State strenuously opposes the bail application of the Petitioner and submits that the Petitioner being the driver cannot be equated with the co-accused released on bail and the offence alleged in this case relates to transportation of commercial quantity of Ganja and Section 37 of the N.D.P.S. Act creates an embargo to release

the accused persons involved in commercial quantity. Of contraband Ganja.

5. On coming back to the materials available on record, it appears that the petitioner has been alleged to have been possessing and transporting contraband Ganja in a truck and the police raiding party has allegedly recovered 564 Kgs and 820 grams of contraband ganja from the said truck. Section 37 of the N.D.P.S. Act creates an embargo on the release of the persons accused of offences involving commercial quantity of contraband articles. Besides, the petitioner has been shown to be the driver of truck in which transportation of such huge quantity of contraband Ganja has been alleged and therefore, the petitioner cannot equated with other co-accused persons-cum-occupants of the truck.

6. Considering the submissions advanced at the bar and taking into consideration the alleged seizure of huge quantity of contraband ganja to the tune of 564 Kgs. and 820 grams and status of the petitioner being the driver of the vehicle in which transportation of ganja has been alleged and the restriction imposed under U/S 37 of the N.D.P.S. Act against the release of persons accused of offences involving commercial quantity of contraband articles, this Court is not inclined to grant bail to the petitioner. Hence, the bail application of the petitioner is rejected.

7. Hence, the BLAPL stands dismissed.

8. At this point of time, learned counsel for the petitioner also submits that although charge sheet has been submitted in this case, neither trial has commenced nor any charge has been framed. If that be so, liberty is granted to the petitioner to approach this Court again after framing of the charge in this case.

(G. Satapathy)
Judge