

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.11137 OF 2021

Tanu Swain

....

Petitioner

Mr. Basudev Pujari, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr.D.R. Parida, ASC

CORAM:

MR. JUSTICE D.DASH

ORDER

25.01.2022

Order No.

- 01.
1. This matter is taken up by Video Conferencing Mode.
 2. The Petitioner being in custody in connection with Kodala P.S. Case No.478 of 2021 corresponding to G.R. Case No.50/ of 2021(N) on the file of learned Additional Sessions Judge-cum-Special Judge, Chatrapur running for commission of offence under Section- 20(B)(ii)C/25/29 of the NDPS Act, has filed this application under section 439 of the Cr.P.C. for her release on bail.
 3. Learned counsel for the Petitioner submits that when as per the prosecution case male members were present in the house and three of them escaped at the sight of the members of the police patrolling party, for mere presence of this Petitioner, a house wife aged about 45 years in the house; her knowledge as to the keeping of ganja in the said house is not inferable and thus she cannot be attributed with the possession of the said

ganja seized. He further submits that this Petitioner has been arrested in the case without any further material to connect her with the said ganja. He, therefore, urges for grant of bail to this Petitioner.

4. Learned counsel for the State opposes the move. According to him, the investigation being in progress, the stage, is too premature to say that the above submission of the learned counsel for the Petitioner had the force. He further submits that in the facts and circumstances of the case, the bar contained under section 37 of the N.D.P.S. Act stands on the way for grant of bail to the Petitioner.

5. Keeping in view the submission, the case diary as placed being gone through; it is seen that the members of the police raiding party having received prior information from reliable source when reached near the house in question, three to four male persons managed to escape and thereafter on their entry, they found one Ratnakar Khatua, and three other females including this Petitioner inside the house and from the first floor of the house 570.550 kgs of ganja has been recovered and seized. Investigation of the case is in progress and other accused persons are yet to be apprehended. It reveals from the case diary that though information has been received that those ganja were being transported from the said house to other States, as indicative therefrom, the process for collection of such materials in that direction appears to be still is going on. In view of all the aforesaid and on the face of the bar contained under section 37 of the NDPS Act while being not inclined to

grant bail to consider for grant of bail to this Petitioner, at this stage, the present application stands disposed of granting liberty to the Petitioner to renew her prayer before the learned court in seisin of the case after completion of the investigation and submission of the charge-sheet.

It is needless to mention that in the event such a move is made, the court below would do well to consider the same on its own merit and further taking into account the materials collected in the investigation in their proper prospective and dispose of the same in accordance with law.

5. Accordingly, the BLAPL stands dismissed.

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.**