

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11167 of 2021

Tankadhar Digal

.... ***Petitioner***
M/s. A.R.Panda, Advocate

-versus-

State of Orissa

.... ***Opp. Parties***
M/s. S.N.Das, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

23.08.2022

Order No.

BLAPL No. 11167 of 2021 & BLAPL No. 11297 of 2021

04. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Since BLAPL No. 11167 of 2021 and BLAPL No. 11297 of 2021 arise out of one and same case, the same are taken up simultaneously and disposed of by this common order.
3. These are applications U/S. 439 of Cr.P.C. by the Petitioners for grant of bail in connection with Gochhapada P.S. Case No.8 of 2021 corresponding to Special C.T. Case No.10 of 2021 pending in the Court of learned Sessions Judge-cum-Special Judge, Kandhamal, Phulbani for commission of offence punishable U/S 20(b)(ii)(c) of the N.D.P.S. Act for alleged possession of contraband ganja of commercial quantity.
4. In course of hearing both the bail application, Mr.A.R.Panda, learned counsel for the petitioners in both the case submits that the petitioners have never been apprehended on the spot nor they have been in conscious possession of any contraband article and they having been arrested subsequently after near about ten months, the petitioners may be released on bail.
5. On the contrary, learned counsel appearing for the State

vehemently opposes the bail application of the petitioners and submits that Section 37 of the N.D.P.s. Act creates a bar on release of the accused persons involving offence of commercial quantity.

6. On coming back to the material placed on record, there appears no dispute that the petitioners have not been arrested from the place of occurrence which is the alleged house of accused Jambe Digal and they have been arrested on the strength of N.B.W. after the gap of ten months. The allegation of conscious and exclusive possession of contraband ganja against the petitioners are general in nature. The petitioners are in custody since 9.11.2021. Further, the contraband ganja has been seized from the alleged house in absence of the petitioners and the raiding party has alleged about learning of fleeing the accused persons including the petitioners from the spot from some general sources, which has not specifically clarified in the F.I.R.

7. In view of the facts stated above and taking into consideration the submissions advanced at the Bar and the factum of apprehension of the petitioners not from the spot and after a gap of ten months and no criminal antecedent having reported against the petitioners vis-à-vis the pretrial detention of the petitioners since 9.11.2021, this Court feels it proper to allow the petitioners on bail. Hence the Petitioners be released on bail on furnishing bail bonds of Rs.50,000/- with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter on such terms and conditions as deem fit and proper by it.

8. Accordingly, both the BLAPL stands disposed of.

(G. Satapathy)
Judge