

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11260 of 2021

Madhaba Paraja

....

Petitioner

Mr.Puspamitra Mohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

13.07.2022

Order No.

02

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel for the State.
3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with Orkel P.S.Case No.223 of 2021 corresponding to Spl.G.R.Case .No.126 of 2021 pending in the Court of the learned Sessions Judge-cum-Special Judge, Malkangiri for alleged commission of offence under Sections 20(b)(ii) (C) of N.D.P.S.Act.
4. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in custody since 29.11.2021 and after completion of investigation submitted charge sheet in the present case. It is further submitted by the learned counsel for the Petitioner that the Petitioner while was travelling in a motorcycle bearing OD-10-Q-9274 was intercepted by the Police party and from the

possession of the Petitioner contraband ganja was seized. Referring to the F.I.R. learned counsel for the Petitioner submits that the contraband ganja which was seized from the possession of the Petitioner was marked as 'C' and the Police recovered contraband ganja from the Petitioner weighing 26 kg. 100 gms. It is further submitted by the learned counsel for the Petitioner that he has no nexus with the riders of other two motorcycles. The Police Party also seized other two motorcycle bearing OR-10-G-9129 and OD-10 P-0273 and also seized total 104 kg. 400 gms of contraband ganja from the persons riding the three motorcycles. It is also submitted by the learned counsel for the Petitioner that the Petitioner has no similar incident and considering the fact that the Petitioner is in custody for almost eight months, the Petitioner be released on bail as there is no possibility of early commencement of trial. He also submits that the Petitioner belongs to the locality and there is no chance of absconding or fleeing from the hands of justice and in the event of his release, he will appear before the trial court on each date of posting of the case and shall abide by the terms and conditions that may be imposed by this Court.

6. Learned Additional Standing Counsel vehemently opposes the prayer for bail of the Petitioner and submits that the contraband ganja which was seized from the exclusive and conscious possession of the present petitioner is more than commercial quantity. Therefore, there is a bar under section 37 of the N.D.P.S. Act. and moreover illegal trafficking of contraband articles is rising day by day and no leniency should be shown to the Petitioner or similarly situated persons.

7. Having heard learned counsel for the parties, considering the surrounding circumstances of the case and the length of custodial

detention of the Petitioner, I am inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions:

- i) he shall not indulge himself in any similar nature of offence.
 - ii) shall appear before the trial court on each and every date fixed by the trial court till conclusion of trial.
 - iii) shall not tamper with the prosecution evidence.
 - iv) shall not influence or threaten any prosecution witnesses while on bail.
 - v) he shall appear before the concerned Police Station once in a fortnight preferably on Sunday in between 10 A.M. to 1 P.M. till conclusion of trial.
 - vi) He shall inform the I.I.C. of the concerned P.S. regarding his whereabouts at least once in a week.
 - vii) Violation of any of the terms and conditions shall entail cancellation of bail.
8. The trial court may impose any other condition(s) as deem fit and proper.
9. BLAPL is accordingly disposed of.
10. Issue urgent certified copy as per Rules.

RKS

(A.K. Mohapatra)
Judge