

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11328 of 2021

Trimurtulu Pallakurty

.... ***Petitioner***
M/s.M.Padhy, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Ms.B.Sahu, C.G.C.(for N.C.B.)

CORAM:

JUSTICE G. SATAPATHY

ORDER

27.09.2022

Order No.

- 09.
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 NCB/Case No. 07/NCB/BBSR/2017 corresponding to T.R. Case No.24 of 2017 pending in the Court of learned Addl. Sessions Judge-cum-Special Judge, Koraput for commission of offence punishable U/Ss. 20(b)(ii)(C) and 25/29 of NDPS Act on the allegation of transporting contraband Ganja weighing about 2037Kgs. in a Truck.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner in this case is the Khalasi of the truck and the driver being one of the co-accused has already been granted bail by this Court in BLAPL No. 7598 of 2019. It is also submitted that the petitioner has no knowledge about the alleged contraband Ganja being carried in the truck and the petitioner was travelling in the truck on the direction of his owner and he has already been detained in custody substantially and the petitioner, thereby, may kindly be released on bail.
 4. On contrary, learned counsel for the N.C.B. submits that the quantity of contraband Ganja seized in this case is 2037Kgs. and Section 37 of the N.D.P.S. Act operates as a bar for release of accused of offences involving commercial quantity. It is, accordingly, prayed by learned

counsel for the N.C.B. to reject the bail application of the petitioner.

5. Considering the rival submissions of the parties upon perusal of record, there appears allegations against the petitioner for travelling as khalasi in the truck carrying contraband Ganja to the tune of 2037Kgs. which is definitely coming under commercial quantity and Section 37 of the N.D.P.S. Act operates as a bar for release of person accused of offences involving commercial quantity. According to prosecution allegations, the petitioner was caught red handed from the truck allegedly carrying such a huge quantity of contraband Ganja.

6. In view of above facts and taking into consideration the allegations brought against the petitioner for transporting such a huge quantity of contraband Ganja in a truck and the limitations as provided under Section 37 of the N.D.P.S. Act as well as the law down by the Apex Court in *State of Kerala Vrs. Rajesh and another; (2020)78 OCR (SC) 65* and in *Narcotics Control Bureau Vrs. Mohit Agarwal; 2022 SCC Online SC 891*, this Court is not inclined to grant bail to the petitioner. Accordingly, the prayer for bail of the petitioner stands rejected.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

Kishore

(G. Satapathy)
Judge