

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11471 of 2021

Arun Kumar Jena

.... ***Petitioner***
Mr. P. Panda, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. S.N. Das, A.S.C.

CORAM:
JUSTICE G. SATAPATHY

ORDER
26.08.2022

Order No.

- 05.
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 Orkel P.S. Case No.144 of 2021 corresponding to G.R. Case No. 75 of 2021 pending in the Court of learned Sessions Judge-cum-Special Judge, Malkangiri for commission of offence punishable under sections 20(b)(ii)(C) of the N.D.P.S. Act on the allegation of unlawfully possessing contraband Ganja to the tune of commercial quantity and transporting it.
 3. In course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner has never been arrested from the spot nor there is any material on record to suggest that he was in conscious possession of the contraband Ganja or transporting the same and the petitioner having detained in custody for more than nine months without any fault, may be enlarged on bail. Learned counsel for the petitioner also relying on the decision of ***Tofan Singh***

-Vrs.- State of Tamil Nadu, reported in (2020) 80 OCR (SC) 641

submits that statement of co-accused before police being inadmissible and the implication of the present petitioner in this case being only on the basis of statement of the co-accused, the petitioner may be enlarged on bail.

4. Learned counsel for the State however, strongly refutes the submissions advanced on behalf of the petitioner and he submits that the commercial quantity of Ganja has been seized in this case and the petitioner having prima facie involved in the case, may not be enlarged on bail.

5. On coming back to the materials placed on record, there appears that the petitioner has been arrested and detained in custody since 19.11.2021 for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act and the quantity of ganja seized in this case is to the tune of 282 kg. Moreover, learned counsel for the State has also brought to the notice of this Court that the petitioner is also involved in another case in Orkel P.S. Case No.23 of 2018 for commission of offence punishable under Section 20(b)(ii)(C) of the N.D.P.S. Act. Learned counsel for the petitioner, however, also submits that he has no instruction with regard to pendency of another case.

6. Considering the nature and gravity of accusations coupled with facts narrated above and regard being had to the character, strength and evidence of supporting materials and keeping in view the alleged involvement of the petitioner in another case in Orkel P.S. Case No.23 of 2018 for commission of offence punishable under Section 20(b)(ii)(c) of the N.D.P.S. Act for commercial quantity of

contraband articles and taking into consideration the specific bar under Section 37 of the N.D.P.S. Act for grant of bail of a person accused of offence involved in commercial quantity, this Court is not inclined to grant bail to the petitioner. Hence, the bail application of the petitioner stands rejected.

7. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subha

