

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11489 of 2021

Sanjay Kumar

.... ***Petitioner***
M/s.S. Mishra, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.D.Nayak, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

30.08.2022

Order No.

- 02.
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 Jeypore (Sadar) P.S. Case No.46 of 2021 corresponding to T.R. Case No.21 of 2021 pending in the Court of learned Sessions Judge-cum-Special Judge, Koraput-Jeypore for commission of offence punishable U/Ss. 20(b)(ii)(C) of N.D.P.S. Act.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner was never conscious possession of any contraband article and the pro-long detention of the petitioner by itself in violative of article 21 of the Constitution and the petitioner being the innocent driver of the container and detained in custody for near about 2 years may be enlarged on bail.
 4. On contrary, learned counsel for the State, however, opposing the bail application of the petitioner submits that commercial quantity of Ganja has been seized from the exclusive possession of the petitioner and the petitioner thereby is not entitled to bail.
 5. Considering the nature and gravity of allegations levelled against the petitioner and the quantity of Ganja seized in this case to be commercial quantity and the alleged role played by the petitioner and taking into account Section 37 of N.D.P.S. Act which creates an embargo

for release of person accused of offence involving commercial quantity and keeping in view the allegation against the petitioner being driver of the container in which transportation of commercial quantity of Ganja has been alleged, this Court is not inclined to admit the petitioner to bail.

6. Hence, the bail application of the petitioner stands rejected. At this stage learned counsel for the petitioner submits to grant liberty to the petitioner to renew his prayer for bail after examination of some of the witnesses which is accepted and liberty is granted to the petitioner to renew his prayer for bail after examination of some of the witnesses to the search and recovery. The learned trial Court is requested to expedite the trial.

7. Accordingly, the BLAPL stands disposed of.

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

(*G. Satapathy*)
Judge

Kishore

