

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.11593 OF 2021

Abdul Rasid Mulla & Two Others ***Petitioners***
Mr. S.K.Sahu, Advocate

-versus-

State of Odisha ***Opposite Party***
Mr. Tapas Ku. Praharaj, SC

CORAM:
MR. JUSTICE D.DASH

ORDER
31.01.2021

Order No.

01. 1. This matter is taken up by video conferencing mode.
2. The Petitioners being in custody in connection with Dhanupali P.S. Case No.427 of 2021 corresponding to T.R. Case No.41 of 2021 on the file of learned Sessions Judge-cum-Special Judge, Sambalpur running for alleged commission of offence under section 20(b)(ii)(C)/29 of the NDPS Act, have filed this application under section 439 of the Cr.P.C. for their release on bail.
3. Learned Counsel for the Petitioners submits that here the very prosecution case is not believable when it is said that when three accused persons were carrying the bag containing 20.650 kgs. of ganja. He further submits that the bag containing ganja having been found lying at the place, these Petitioners who are outsiders being the passersby have been falsely implicated. It is also submitted that in the facts and circumstances, the error in the weighment as has been made is not altogether ruled out. He also

submits that these Petitioners do not have any criminal antecedent. In view of all these above, when the investigation of the case has made substantial progress and there remains no scope on the part of the Petitioners to tamper the evidence, he urges for grant of bail to the Petitioners as according to him in the facts and circumstances, the bar contained under section-37 of the NDPS Act does not stand on the way.

4. Learned Counsel for the State opposes the move. According to him, the stage is too premature to accept the submission that the prosecution case is not believable. He further submits that the circumstances as to the failure of the Petitioners to explain their presence at the spot at that hour stands against them.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the s with other surrounding circumstances including the period of detention of the Petitioners in custody and on going through the order passed by the learned Sessions Judge-cum-Judge (Special Court); in the absence of any such impediment; it is directed that the Petitioners be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the Court is seisin of the case with further conditions that:-

1. they shall furnish their address along with the contact mobile numbers by way of affidavit and in case of any change, shall intimate the same in that way;

2. shall appear before the respective Inspector-in-Charge of Mandirbazar, and Dholaghat Police Station in the District of South 24 Pragana, State of West Bengal every fortnight between 10.00 am to 2.00 pm till conclusion of the trial; and
3. shall appear in person before the Court in seisin of the case on each and every date of posting of the case till conclusion of the trial except under some exceptional circumstance to the satisfaction of the court.

Violation of any of the condition(s) shall entail cancellation of bail.

6. The BLAPL is accordingly disposed of.
7. As the restrictions due to resurgence of COVID-19 situation are continuing, learned Counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587 dated 25th March, 2020 as modified by Court's Notice No.4798 dated 15th April, 2021 and Court's Office order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

**(D. Dash),
Judge.**

Narayan