

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.11600 OF 2021

Santosh Kuamr Biswal

.... ***Petitioner***
Mr. Rajib Rath, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. B. Panigrahi, ASC

CORAM:
MR. JUSTICE D.DASH

ORDER
07.07.2022

Order No.

- 03.
1. This matter is taken up through hybrid arrangement (virtual/ physical) mode.
 2. This the successive journey of this Petitioner, who is in custody in connection with Mohana P.S. Case No.132 of 2019 corresponding to G.R. Case No.49 of 2019 on the file of learned Special Judge, Gajapati, Parlakhemundi running for alleged commission of offence under Section-20(b)(ii)(C)/ 25 & 29 of the NDPS Act, in filing this application under Section-439 of the Cr.P.C. for his release on bail.
 3. Learned Counsel for the Petitioner submits that this Petitioner being arrested in the case on the allegation that he was in possession of 59 kgs of ganja, he has been in custody since 02.08.2019. He further submits that co-accused, namely, Kabi Bidika and Issak Majhi, who are the occupant and driver of the vehicle respectively at the relevant time have in the meantime been released on bail. It is further submitted that the

vehicle in question stands registered in the name of the father of the accused Issak Majhi and this Petitioner having taken lift on the way has been the victim of the circumstance. In view of all these above, when in the time the two witnesses have been examined and there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence, according to him, the bar contained under section 37 of the NDPS Act at this stage does not stand on the way of grant of bail to the Petitioner. He, therefore, urges for reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned Counsel for the State opposes the move in view of the quantity of contraband seized from the vehicle. He, however, does not dispute the position that the Petitioner is in custody since 02.08.2019 and that the progress of the trial has not been at the desired pace. He also does not dispute the factum of grant of bail to the co-accused Kabi Bidika and Issak Majhi.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner with other surrounding circumstances including the factum of release of co-accused persons on bail as also the period of detention of the Petitioner in custody; while being inclined to reconsider the prayer for grant of bail to the Petitioner; it is directed that the petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that:-

1. he will appear in person before the court in seisin of the case on each and every date of positing of the case till conclusion of trial;
 2. will appear before the IIC, of the concerned P.S. on every Monday in between 10 am to 2 pm for the next one year; and
 3. will not indulge himself in commission similar type of offences.
6. The BLAPL is accordingly disposed of.

Issue urgent certified copy as per rules.

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

Himansu

