

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 6412 of 2021

Duana Mallik

....

Petitioner

Mr. Julu Khansama, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Manoj Kumar Mohanty, Additional Standing
Counsel

CORAM:
THE JUSTICE S. K. PANIGRAHI

Order No.

ORDER

30.07.2021

03. 1. This matter is taken up by video conferencing mode.

2. Heard, learned counsel for the petitioner and learned counsel for the State.

3. The petitioner is apprehending his arrest in Manamunda PS Case No.11 of 2019 corresponding to C.T. Case No.25 of 2019 further corresponding to Spl. Case no. 96 of 2019 pending in the court of the learned District and Sessions cum Special Judge, Boudh, registered for the alleged commission of offence under Section 20(A) of the NDPS Act and Section 27(1) of Orissa Forest Act, has filed this application under Section 438 of CrPC for his release on bail.

4. The brief fact of the case is that on 13.01.2019, I.I.C. of Manamunda PS ('informant') received information about cultivation of Cannabis plant in a clandestine and illegal manner in the Kirimakhol Gramya jungle. Thereafter the informant along with revenue and forest staff visited the spot and noticed Cannabis plant of

height 4 to 6 feet planted in the region. They ascertained the cultivation of the Cannabis plant was illegal. Noticing the informant and staff, the people inside the cultivated land cleaning grass from the field ran away towards the jungle and the informant's team could not catch hold of them. The local people present there identified the petitioner and other accused persons. After the registration of FIR, police immediately started investigating the matter, examined the witnesses and looking forward to arresting the petitioner.

5. Learned counsel for the petitioner submits that the petitioner has absolutely no role in the alleged occurrence. The cannabis plants are cultivated in the Kirmakhol jungle and the petitioner is the permanent resident of Kirmakhol village. Due to the ulterior motive of the police, the petitioner has been falsely implicated in this case.

6. Learned counsel for the State vehemently opposed the bail prayer of the petitioner.

7. However, considering the facts and submissions made, without expressing any opinion on the merit of the case, nature of allegations, circumstances in which the offences stated to have been committed, punishment prescribed on conviction of the offence alleged and it also not disputed that the petitioner's release on anticipatory bail, shall be a hindrance to free and fair investigation, this court is of the view that the petitioner has made out a case for his release on anticipatory bail, more particularly when he is ready and willing to co-operate with the investigation and he has no chance of

absconding, and/or tampering with prosecution evidence, if released on anticipatory bail.

8. Hence, this Court directs that in the event of arrest of the petitioner in connection with the aforementioned case, he be released on anticipatory bail by the Officer effecting arrest on some stringent terms and conditions as deemed just and proper including the condition that he shall co-operate with the investigation and appear before the Investigating officer as and when required.

9. However, the aforesaid order is subject to the condition that the petitioner shall co-operate with the investigation and no other graver offence is reported against the petitioner besides the aforesaid offences.

10. Violation of any of the conditions shall entail cancellation of the bail.

11. The ABLAPL is accordingly disposed of.

12. As the restrictions due to the COVID-19 situation are continuing, learned counsel for the parties may utilize a soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed, vide Court's Notice No.4587, dated 25th March 2020.

*(S. K. Panigrahi)
Judge*