

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 12734 of 2023

Pramod Kumar Digal

.....

Petitioner

Mr. Mahes Das, Adv.

Vs.

State of Odisha

.....

Opp. Party

Mr. S. S. Mohapatra, A.S.C.

CORAM:

JUSTICE SAVITRI RATHO

ORDER

31.01.2024

Order No.

02.

(Through hybrid mode)

1. This application under Section 439 of the Cr.P.C. has been filed in connection with K. Nuagaon P.S. case No. 105 of 2023 corresponding to C.T. Case No. 89 of 2023 pending before the Court of learned Special Judge-cum- Additional District and Sessions Judge, Balliguda, registered under Section 20(b)(ii)(c) of the NDPS Act.

2. The prayer for bail of the petitioner has been rejected on 31.10.2023 by the learned Special Judge-cum- Additional District and Sessions Judge, Balliguda, Kandhamal.

3. The prosecution allegation in brief is that on 05.08.2023, while the SI of the police. Nuagaon PS was performing patrolling duty at Daringbadi Chak with other staff at about 5.30 Am, they

found one silver colour Maruti Alto car bearing registration No. OR-12-A-1414 coming from Baliguda side towards K.Nuagaon. They chased the car and detained it. One Ajit Pradhan @ Jitu was present in the car and on search of the car, a white colour jerry bag was recovered from the dickey of the car which was found to contain 24 kg 490 gms. of the Ganja. As the co-accused could not produce any authority for the possession of the ganja, the ganja was seized and he was arrested. As it was found that the petitioner was the owner of the car, notice was issued to him by the IO. But he did not respond to the notice and subsequently, he has been arrested on 22.10.2023.

4. Mr. M. Das, learned counsel for the petitioner submits that the Ajit Pradhan @ Jitu has been employed by the petitioner as a driver. He had been given strict instruction not to carry any contraband in the car or use the car for any illegal activity. But without his knowledge and against his instruction the co-accused he has apparently carried contraband ganja in the car. There is no allegation that the petitioner was in the vehicle when the ganja was being transported or that the ganja was being transported on his instruction. As no contraband has been seized from him and he has also no criminal antecedents under the NDPS Act, Section 37 of

the NDPS Act will not be a bar for consideration of his prayer for bail. He further submits that the prayer for bail of the co-accused Ajit Pradhan @ Jitu has been allowed in BLAPL No.10895 of 2023 on 09.10.2023 by this Court. Since major part of the investigation is over, he may be released on bail.

5. Mr. S.S. Mohapatra, learned Additional Standing Counsel, opposes the prayer for bail stating that as the petitioner is the owner of the car, a case under Section 20(b)(ii)(c) and 25 of the NDPS Act is squarely made against him.

6. Considering the nature of allegations against the petitioner and as no contraband has been seized from the possession of petitioner and he is stated to have no criminal antecedents under the NDPS Act, I am of the view that Section 37 of the NDPS Act will not be a bar for releasing him on bail. Moreover, co-accused Ajit Pradhan @ Jitu has been released on bail, I am therefore inclined to allow the prayer for bail.

7. Let the petitioner Pramod Kumar Digal be released on bail on such terms and conditions as deemed fit and proper by the learned Court below in seisin over the matter including the following conditions:

(i) The petitioner shall co-operate with the investigation and appear before the K.Nuagaon Police Station once in two weeks preferably on a Monday between 4.00 PM to 6.00 PM till completion of investigation.

(ii) He shall not commit similar offence while on bail.

8. Violation of any condition will entail in cancellation of bail.
9. The BLAPL is accordingly disposed of.
10. Urgent certified copy of this order be granted on proper application.

Subhalaxmi



**(Savitri Ratho)
Judge**

Signature Not Verified

Digitally Signed
Signed by: SUKANTA KUMAR BEHERA
Designation: Senior Stenographer
Reason: Authentication
Location: Orissa High Court, Cuttack
Date: 01-Feb-2024 20:36:59

