



IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.11995 of 2025

Maheswar Swain

... ***Petitioner***

Mr. B. Dalai, Advocate

-versus-

State of Odisha

... ***Opposite Party***

Mr. T.K. Acharya, Addl. PP

CORAM:
JUSTICE G. SATAPATHY

ORDER(ORAL)
16.12.2025

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).

2. This is a bail application U/S.483 of BNSS by the petitioner for grant of bail in connection with Khandapada PS Case No.97 of 2025 corresponding to Spl. GR Case No.30 of 2025 pending in the file of learned Special Judge-cum-Sessions Judge, Nayagarh, being charge-sheeted for commission of offences punishable U/Ss.20(b)(ii)(C)/25/29 of NDPS Act, on the main allegation of transporting 165Kgs 865Grams of Contraband Ganja in a Mahindra Bolero Pick-up vehicle bearing Regd. No.OD-32-H-0476.

3. Heard, Mr. Biswaranjan Dalai, learned counsel for the petitioner and Mr. T.K. Acharya, learned Additional Public Prosecutor in the matter and perused the record.

3.1. It is, however, contended for the petitioner that since the petitioner was not apprehended from the



spot, the police could not reasonably connect him with the vehicle and therefore, the petitioner's bail application may kindly be considered positively, but the learned State Counsel, however, strongly opposes such submission advanced for the petitioner by contending *inter-alia* that the petitioner was apprehended after some time of the accident of the Mahindra Bolero Pick-up vehicle, which was loaded with Contraband article and the police having found the petitioner to be the driver of the vehicle, has forwarded him to the custody and, therefore, the bail application of the petitioner may kindly be rejected.

4. After having considered the rival submissions upon perusal of record, there appears allegation against the petitioner for transporting 165Kgs 865Grams of Contraband Ganja, which is well above the commercial quantity, allegedly in the vehicle in question which was detected after the vehicle dashed against the road side tree. The forwarding report of the petitioner reveals that he was apprehended subsequently. Whether the petitioner was not driving the vehicle at the relevant time of occurrence is a question of fact and can be gone into at the trial after evidence being led, but right now this Court does not consider it proper to find out as to whether the petitioner was driving the vehicle or not which would in fact cause bias at this stage. On a studied scrutiny of the materials placed on record together with the circumstances in which the petitioner



was apprehended, this Court considers that the petitioner has to satisfy the conditions of Section 37 of NDPS Act for his release on bail, since Section 37 of NDPS Act prescribes that no person accused of an offence under NDPS Act involving commercial quantity shall be released on bail, where the public prosecutor opposes such bail application of the accused; unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail. In this case, after going through the materials placed on record, this Court reasonably does not find the petitioner to have satisfied the conditions of Section 37 of NDPS Act, which is *sine qua non* for grant of bail for commission of offence under NDPS Act involving commercial quantity.

5. Hence, the bail application of the petitioner stands rejected. It is open for the petitioner to renew his prayer for bail after examination of some witnesses.

6. Accordingly, the BLAPL stands disposed of.

(G. Satapathy)
Judge