

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 23 OF 2021

Biswamitra Digal

..... ***Petitioner***
Mr. AR.Panda, Adv.

-versus-

State of Odisha

..... ***Opposite Party***
Mr. K.K.Gaya, ASC

CORAM:
JUSTICE V. NARASINGH

ORDER
18.04.2022

Order No.
07.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the parties.
3. The Petitioner is an accused in connection with C.T. Case No.90 of 2020 arising out of Phiringia P.S. Case No. 107 of 2020 on the file of learned District & Sessions Judge-cum-Special Judge, Phulbani, registered for the alleged commission of offence under Sections 20(b)(ii)(C) of the NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s 439 Cr.P.C. by the learned District & Sessions Judge-cum-Special Judge, Phulbani, by order dated 4.12.2020, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that from the manner of seizure exclusive conscious possession cannot be attributed to the petitioner. It is further submitted that the petitioner is in custody since 28.11.2020 and there has been no

progress in the trial and such delay is not attributable to the petitioner and hence, relying on the judgment of the Apex Court in the case of **Hussainara Khatoon & Ors. Vs. State of Bihar**, reported in 1979 AIR1369, prays petitioner to be released on bail. It is also submitted by the learned counsel for the petitioner that he has no criminal proclivity.

6. Learned counsel for the State referring to the quantity seized, being beyond the permissible under Section 37 of the NDPS Act, opposes the move for bail.

7. Taking into account the period of custody, the manner of seizure and that the trial has not commenced, this Court directs that the petitioner shall be released on bail on such terms to be fixed by the court in seisin of the matter.

8 Accordingly, the BLAPL stands disposed of.

9. Issue urgent certified copy of this order as per Rules.

(*V.Narasingh*)
Judge

Dhal