

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 268 of 2021

Bipin Mallik

....

Petitioner

Mr. R.N. Mohanty, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

25.03.2022

Order No.

10.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned State counsel.
3. The petitioner is an accused in Spl. G.R. Case No.37 of 2020, on the files of Additional Sessions Judge-cum-Special Judge, Bhanjanagar, arising out of Bhanjanagar P.S. Case No.583 of 2020 under Sections 20(b)(ii)(c) of NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special Judge, Bhanjanagar, by order dated 08.01.2021 in the aforementioned case, the present BLAPL has been filed.
5. The learned counsel for the petitioner state that he is an occupant of Maruti Suzuki Esteem Car bearing registration No.-

OR 02 AE 8474. Though the total seizure in the case at hand has been shown to the tune of 41.070 kg yet the vehicle in which the petitioner is an occupant the seizure is of 20.540 kg. it is stated that the petitioner is in custody since 10.11.2020.

6. It is further stated that because of wrong weighment the Bar under Section 37 of the NDPS Act is attracted on the case at hand.

7. Learned counsel for the State refutes such submission and prays for rejection of prayer for bail.

8. Taking into account that trial has not commenced as submitted, and the period of custody and the amount of contraband seized from the petitioner and the manner of such seizure, at this stage it cannot be said with certainty that the petitioner is in conscious exclusive possession of the contraband so as to attract the bar under Section 37 of the NDPS Act.

9. Accordingly, it is directed that the petitioner shall be released on bail on such terms to be fixed by the learned Court in seisin of the matter including that he shall attend each date of trial.

10. Accordingly, the BLAPL stands disposed of.

11. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Santoshi