

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 357 OF 2021

Sambhu Digal

..... ***Petitioner***
Mr. S.K. Dwibedi, Adv.

-versus-

State of Odisha

..... ***Opposite Party***
Miss S. Mishra, ASC

CORAM:

JUSTICE V. NARASINGH

ORDER
06.04.2022

Order No.

06.

1. This matter is taken up through Hybrid Mode.
2. The petitioner is an accused in connection with Spl. G.R. Case No. 37 of 2020 on the file of the Learned Addl. Sessions Judge-Cum- Special Judge, Bhanjanagar, arising out of Bhanjanagar P.S. Case No. 583 of 2020, for commission of alleged offence under Sections-20(b)(ii)(C) of N.D.P.C., Act.
3. Being aggrieved by the order dtd. 08.01.2021 passed by the Learned Addl. Sessions Judge-Cum- Special Judge, Bhanjanagar in Spl. G.R. Case No. 37 of 2020, rejecting the bail application of the petitioner, the present BLAPL has been filed.
4. Heard Mr. S.K. Dwibedi, learned counsel for the petitioner and Miss S. Mishra, learned Additional Standing Counsel for the State.
5. Learned counsel for the petitioner submits that the petitioner 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 weightment, the bar under Section-37 of the NDPS Act is attracted in 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 the condition that he shall attend each date of trial

10. The Bail Application thus stands disposed of.

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