

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 1169 OF 2021

Shiva Kumar

..... *Petitioner*
Mr. P.K.Nanda, Adv.

-versus-

State of Odisha

..... *Opposite Parties*
Ms. S.Mishra, ASC

CORAM:
JUSTICE V. NARASINGH

ORDER
11.05.2022

Order No.

09.

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 G.R.Case No.32 of 2020 arising out of Chamakhandi P.S. Case No. 158 of 2020 on the file of learned Additional Sessions Judge-cum-Special Judge, Chatrapur, registered for the alleged commission of offence under Section 20(b)(ii)(c)/29 of the 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, Chatrapur, by order dated 25.01.2021, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that he was the occupant of the vehicle and had no inkling of contraband being carried in the same and is a victim of the circumstances and as such conscious exclusive possession cannot be

attributed to him, and relying on the judgment of the Apex Court in the case of **Hussainara Khatoon & Others Vrs. State of Bihar**, reported in 1979 AIR 1369, prays for release, since the trial has not commenced though he is in custody since 23.11.2020.

6. Opposing such prayer learned counsel for the State on the basis of recitals in the case diary submits there are materials implicating the petitioner and the plea of innocence cannot be considered at this stage in view of the statutory bar. But fairly does not dispute that trial has not commenced. It is further submitted by the learned State Counsel that releasing of the petitioner, who is an outsider would affect the impending trial.

7. Considering the submission at the bar and taking into account the period of pretrial custody, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned court in seisin over the matter including the condition that the petitioner shall submit cash security to the tune of Rs.70,000/- (Rupees seventy thousand) and shall appear before the jurisdictional Police Station once in every month, the date of such appearance is to be fixed by the court below.

8. It is needless to state that violation of the stipulation relating to appearance before the jurisdictional Police Station shall entail cancellation of bail in accordance with law without any further reference to this Court.

9. The BLAPL is accordingly disposed of.

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

(*V.Narasingh*)
Judge

