

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 1332 of 2021

Bijaya Rana

....

Petitioner

Mr. J.K. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
08.04.2022

Order No.

10.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is an accused in C.T. Case No.03 of 2021, on the files of learned Sessions Judge-cum-Special Judge, Phulbani, arising out of Phiringia P.S. Case No.01 of 2021, under Sections 20(b)(ii)(c) of the NDPS Act and is in custody since 07.01.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Phulbani, by order dated 13.01.2021 in the aforementioned case, the present BLAPL has been filed.

5. It is submitted by the learned counsel for the petitioner that from the manner of seizure conscious exclusive possession cannot be attributed to him so as to attract the bar under Section 37 of the NDPS Act.

6. Learned counsel for the State opposes the move inter alia on the ground that the plea of public place as stated by the learned counsel for the petitioner is not borne out from the record. And as such since the contraband is beyond the commercial quantity the petitioner is not entitled to any relief.

7. Taking into account that the petitioner is in custody since 07.01.2021 and trial has not commenced, in view of the law laid down by the Apex Court in the case of ***Hussainara Khatoon (I) v. State of Bihar*** reported in (1980) 1 SCC 81, this Court directs the petitioner to 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. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Santoshi