

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**BLAPL No. 1399 OF 2021**

***Sunil Mallick***

..... ***Petitioner***  
***Mr. B.N.Mohapatra, Adv.***

***-versus-***

***State of Odisha***

..... ***Opposite Party***  
***Mr. S.S.Pradhan, AGA***

**CORAM:**  
**JUSTICE V. NARASINGH**

**ORDER**  
**20.06.2022**

**Order No.**  
**07.**

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.
3. The Petitioner is an accused in connection with Spl. G.R. Case No.28 of 2020(NDPS) arising out of Sadar P.S. Case No. 233 of 2020 on the file of learned Special Judge-cum-Additional District and Sessions Judge, Bhanjanagar, Dist. Ganjam, for the alleged commission of offence under Section 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 Special Judge-cum-Additional District and Sessions Judge, Bhanjanagar, Dist. Ganjam by order dated 18.09.2020, the present BLAPL has been filed
5. Learned counsel for the petitioner submits that being a paid driver of the vehicle in which contraband was carried, conscious exclusive possession cannot be attributed to him as such he is a victim of circumstances. It is further submitted that though the petitioner is in

custody since 12.09.2020 the trial has not commenced and therefore, it is prayed that the petitioner be released on bail.

6. Per contra, learned counsel for the State opposes the prayer for bail in view of the bar under Section 37 of the NDPS Act. It is further submitted that plea of innocence as advanced does not stand to reason and there is no progress in the trial.

7. Taking note of the fact that though the petitioner is in custody since 12.09.2020, there is no progress in the trial, this Court in terms of the judgment of the Apex Court in the case of **Hussainara Khatoon & others Vrs. State of Bihar**, reported in (1980) 1 SCC 81 directs that the petitioner shall be released on bail on such terms to be fixed by the learned court in seisin over the matter so as to ensure his attendance on each date trial.

8. Accordingly, the BLAPL stands disposed of.

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

( *V.Narasingh* )  
*Judge*

*Dhal*