

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 1546 OF 2021

Suresh Gond

***..... Petitioner
Mr. Anirudha Das, Adv.***

-versus-

State of Odisha

***..... Opposite Party
Mr. D. Mund, AGA***

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
22.03.2022**

Order No.

06.

1. This matter is taken up through Hybrid Mode.
2. The petitioner is an accused in connection with Special T.R. Case No. 57 of 2019 corresponding to Sohela P.S. Case No. 154 of 2019, pending on the file of the learned Additional Sessions Judge-Cum-Special Judge, Padampur, for the alleged commission of offence under Sections-20(b)(ii)(C)/29 of the N.D.P.S. Act and is in custody since 26.09.2019.
3. Being aggrieved by the rejection of his application for bail U/s. 439 Cr.P.C. by the learned Additional Sessions Judge, Padampur by Order dtd. 18.01.2021 in Spl. G.R. No. 57 of 2019, the present BLAPL has been filed.
4. Heard Mr. Anirudha Das, learned counsel for the petitioner and Mr. D. Mund, learned Additional Government Advocate for the State.

5. Learned counsel for the petitioner states that charge-sheet has already been filed and he being a passenger in the vehicle is in custody since 26.09.2019 for the contraband (Ganja) having been recovered from the boot of the car.

6. It is further submitted by the learned counsel for the petitioner that, he being a passenger in the vehicle exclusive conscious possession of the Ganja being kept in the boot of the car cannot be readily attributed to him. It is submitted that, since charge-sheet has already been filed, there is no scope for the petitioner to tamper with the evidence and hence urges for grant of bail.

7. The petitioner also relies on the order passed by this Court in BLAPL No. 3115 of 2020 (Bira @ Birendra Bariha) disposed of on 25.06.2020 and the order of this Court dtd. 01.10.2020 in BLAPL No. 9179 of 2019 and Order dtd. 25.06.2020 in BLAPL No. 3128 of 2020 and seeks consideration of the present bail application also on the ground of parity.

8. Learned counsel for the State opposes the prayer for grant of bail and states that in view of bar under Section-37 of the NDPS Act, the petitioner's bail application is not to be considered favourably and also submits that the petitioner is not similarly circumstanced and that the ground of parity as urged is illusory.

9. Taking into account the manner of seizure, it cannot be stated with certainty that the petitioner was in conscious exclusive possession of the contraband 'ganja' seized. As charge-sheet has already been filed and the petitioner is in custody since 26.09.2019 and in view of the orders passed in respect of the co-accused as referred to above, this Court directs that the petitioner

shall be released on bail. Learned Court in seisin of the matter to fix the terms with further conditions that;

- (i) he shall not involve in similar nature of offence or any other offence;
- (ii) he shall not try to influence or terrorise the prosecution witnesses in any manner; and
- (iii) he shall appear before the Court in seisin of the case on each date of posting till completion of trial.

Violation of any of the above conditions would entail cancellation of bail of the petitioner.

- 10. The Bail Application thus stands disposed of.
- 11. Urgent certified copy of this order be granted as per rule.

Balaram

*(V.Narasingh)
Judge*

