

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 1779 OF 2021

Gagan Majhi

..... *Petitioner*
Mr. Smruti Ranjan Mohapatra, Adv.

State of Odisha

-versus-

..... *Opposite Party*
Mr. K.K. Gaya, ASC

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 2(a) C.C. Case No. 07 of 2021 corresponding to EI & EB Unit-II, Cuttack Case No. 140 of 2021, pending on the file of the learned Sessions Judge-Cum-Special Judge, Cuttack, for the alleged commission of offence under Sections-20(b)(ii)(C) of the N.D.P.S. Act and the petitioner is in custody since 10.02.2021.
3. Being aggrieved by the rejection of his application for bail U/s. 439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Cuttack by Order dtd. 23.02.2021 in 2(a) C.C. Case No. 07 of 2021, the present BLAPL has been filed.

4. Heard Mr. Smruti Ranjan Mohapatra, learned counsel for the petitioner and Mr. K.K. Gaya, learned Additional Standing Counsel for the State.

5. Learned counsel for the petitioner states that contraband was recovered from the vehicle in which he is a passenger, as such, the conscious possession cannot be attributed to him.

It is also stated that the error regarding vehement cannot be ruled out as recovery is stated to be of 22 KGs.

6. Learned counsel for the State opposes the move, pressing into service the bar under Section-37 of the N.D.P.S. Act.

7. Taking into account that the charge sheet has already been filed and keeping in view the manner of seizure, this Court is of the considered opinion that the conscious possession cannot be attributed to the petitioner.

8. Taking into account the period of detention, in a factual matrix of the case at hand, this Court directs the petitioner to be released on bail in connection with 2(a) C.C. Case No. 07 of 2021 corresponding to EI & EB Unit-II, Cuttack Case No. 140 of 2021, pending on the file of the learned Sessions Judge-Cum-Special Judge, Cuttack, on such terms to be fixed by the learned Court in seisin of the matter.

9. The Bail Application thus stands disposed of.

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