

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 1995 OF 2021

Pabana Dora

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

-versus-

State of Odisha

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

CORAM:
JUSTICE V. NARASINGH

ORDER
23.03.2022

Order No.

06.

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 G.R. (Special) Case No. 07 of 2021 on the files of learned Sessions Judge-cum- Special Judge, Cuttack, arising out of Chauliaganj P.S. Case No. 96 of 2021, U/s 20(b)(ii)(C) of the N.D.P.S. Act.
4. Being aggrieved by the rejection of his application for bail under Section 439 Cr.P.C. by the learned Sessions Judge-cum- Special Judge, Cuttack, by order dated 3.3.2021 in G.R. (Special) Case No. 07 of 2021 arising out of Chauliaganj P.S. Case No. 96 of 2021, the present BLAPL has been filed.
5. Learned counsel for the petitioner states that the Petitioner is the owner-cum-Driver of the Auto Rickshaw from which the contraband (Ganja) to the tune of 41 Kgs. was recovered. It is submitted with vehemence that the Petitioner is a

victim of the circumstances in as much as a driver of Auto Rickshaw, which he is plying to earn his livelihood, could not have prevented the passengers carrying those bags in travelling in his vehicle.

6. Learned counsel for the State referring to the recitals in the case diary submitted that the grounds being urged by the learned counsel for the Petitioner do not merit consideration of this Court in view of the quantity of contraband seized being more than the commercial quantity and in view of Bar under Section 37 of the NDPS Act, the Petitioner is not entitled to any relief.

7. It is seen from the F.I.R. that on being detained, two passengers sitting in the vehicle fled away

8 Taking into account the circumstances as revealed from the F.I.R. and considering the submission of the learned counsel for the Petitioner, this Court feels that conscious possession of the contraband seized from the Auto Rickshaw cannot be attributed to him exclusively. Hence, this Court direct that the Petitioner be released on bail on such terms to be fixed by the court in seisin of the matter including one that the Petitioner shall appear before the local Police Station once every week till the completion of the trial.

9. Accordingly, the BLAPL is disposed of.

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

(V.Narasimha)
Judge

