

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2062 OF 2021

Sagar Kumar Pradhan & Anr.

***..... Petitioners
Mr. Chinmoy Mohanty, Advocate
Mr. Samvit Mohanty, Advocate***

-versus-

State of Odisha

***..... Opposite Party
Miss S. Mishra, ASC***

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
26.04.2022**

**Order No.
06.**

1. This matter is taken up through Hybrid Mode.
2. The petitioners are is an accused in T. R. No. 328 of 2020 pending on the file of the Learned District & Sessions Judge, (K)S at-Bhubaneswar, arising out of Bhubaneswar P.S. Case No. 84 of 2020, for commission of alleged offence under Sections-20(b)(ii)(C) of N.D.P.C., Act and are in custody since 03.08.2020.
3. Being aggrieved by the order dtd. 26.11.2020 passed by the Learned District & Sessions Judge, (K) at-Bhubaneswar in T.R. No. 328 of 2020, rejecting the bail application of the petitioners, the present BLAPL has been filed.

4. Heard Mr. C. Mohanty, learned counsel for the petitioners and Miss S. Mishra, learned Additional Standing Counsel for the State.

5. Learned counsel for the petitioner has placed for consideration of Court, documents obtained through R.T.I, which indicate that booking of parcels was part of the responsibility of petitioner No.1 since 2016. It is stated that the petitioner No.2 is also similarly engaged.

6. It is submitted by learned counsel for the petitioners that they were merely discharging their duties as Booking Agents as clearly borne out from the Final Form. But, as ill luck would have it, the parcel contained contraband of which they had no knowledge and hence it is submitted that conscious possession cannot be attributed to the petitioners.

7. It is further submitted that, in the meanwhile one Sri Alok Kumar Jali has been examined as P.W.1 and he has not whispered a single word regarding the complicity of the petitioners. Hence, it is prayed that the petitioners are entitled to be released on bail.

8. Per contra, the learned counsel for the State referring to the quantity of contraband submits that at this stage of consideration of bail the petitioner's contention claiming innocence in view of the specific bar under Section-37 of the

NDPS Act cannot be taken into account and the petitioners application is liable to be rejected.

9. Admittedly, the petitioners are in custody since 30.08.2020 and taking in to account the role ascribed to the petitioners in the Final Form, this Court is of prima facie view that conscious and exclusive possession cannot be attributed to the petitioners. The evidence of P.W.1 not implicating the petitioners in the transaction of procurement also cannot be lost sight of. Hence, on a conspectus of materials on record, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter to ensure his presence on each date of trial.

10. The Bail Application thus stands disposed of.

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

Balaram

*(V.Narasingh)
Judge*