

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2210 OF 2021

Deepak Mandal

..... *Petitioner*
Mr. R.L. Pattnaik, Adv. &
Ms. E. Dash, Adv.

-versus-

State of Odisha

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

CORAM:
JUSTICE V. NARASINGH

ORDER
30.03.2022

Order No.
07.

1. This matter is taken up through Hybrid Mode.
2. The petitioner is an accused in connection with Special T.R. Case No. 90 of 2020 corresponding to Motu P.S. Case No. 59 of 2020, pending on the file of the learned Sessions Judge-cum-Special Judge, Malkangiri for the alleged commission of offence under Sections-20(b)(ii)(C) of the NDPS Act and the petitioner is in custody since 02.09.2020.
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, Malkangiri by Order dtd. 03.09.2020 in T.R. No. 90 of 2020, the present BLAPL has been filed.

4. Heard learned Counsel for the petitioner and learned Additional Standing Counsel for the State.

5. Learned counsel for the petitioner submits that the conscious possession of the entire contraband cannot be attributed to him, since the seizure from the bike is 26 Kg. 300gms when admittedly the petitioner is a pillion rider. As seen, it is prayed that petitioner is entitled to be enlarged on bail.

6. Learned counsel for the State refutes the same stating inter alia that there is no separate seizure and at this stage it is not possible to bifurcate the total quantity and in view of the bar under Section-37 of the NDPS Act, the petitioner's BLAPL deserves to be dismissed.

7. Considering the nature of seizure from the bike in which the petitioner is a pillion rider, exclusive conscious possession cannot be readily attributed to him. The petitioner is stated to be in custody since 02.09.2020.

8. Accordingly this Court directs that the petitioner shall be released on bail in connection with Special T.R. Case No. 90 of 2020 corresponding to Motu P.S. Case No. 59 of 2020, pending on the file of the learned Sessions Judge-cum-Special Judge, Malkangiri, on such terms to be fixed by the Learned Court in seisin of the matter.

9. This order shall not be cited as preceding in respect of the other accused person, whose bail application to be decided on its own merits.

10. The BLAPL thus stands disposed of.

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

Balaram

*(V.Narasingh)
Judge*

