

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 2223 OF 2021

Manoj Nath & another

..... *Petitioners*
Mr. S.Dwibedi, Adv.

-versus-

State of Odisha

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

CORAM:
JUSTICE V. NARASINGH

ORDER
07.04.2022

Order No.
08.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the parties.
3. The Petitioners are accused in connection with Phubani Town P.S. Case No. 31 of 2021 corresponding to C.T. Case No.320 of 2021 on the file of learned Special Judge, Phulbani, registered for the alleged commission of offence under Sections 20(b)(ii)(C)/25/29 of the NDPS Act. The petitioners are in custody since 4.03.2021
4. Being aggrieved by the rejection of their application for bail U/s 439 Cr.P.C. by the learned Special Judge, Phulbani by order dated 8.03.2021, the present BLAPL has been filed.
5. It is stated by the learned counsel for the petitioners that petitioner no.1 is the owner-cum-driver and petitioner no.2 is an occupant in the vehicle from which the contraband was seized. Though they are in custody since 4.3.2021, trial has not been

commenced and placing reliance on the judgment of the Apex court in the case of **Hussainara Khatoon(I) & others Vs. Home Secretary, State of Bihar**, reported in AIR 1979 SC 1369 seeks indulgence of this Court.

6. Per contra the learned counsel for the State submits that from the role ascribed to the petitioners and in view of the bar contained under Section 37 of the NDPS Act, the bail application is liable to be rejected.

7. Taking into account the nature of allegation and that the trial has not commenced and the petitioners are in custody since 4.3.2021 and in view of the law laid down by the Apex Court as stated in the case of **Hussainara Khatoon(I)** (supra), this Court directs that the petitioners are to be released on bail on such terms to be fixed by the learned court in sesisin of the matter.

8. The photocopy of the Driving License of Petitioner No.1 submitted in Court be kept on record.

9. Accordingly, the BLAPL stands disposed of.

10. Issue urgent certified copy of this order as per Rules.

(*V.Narasingh*)
Judge

Dhal