

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2923 of 2022

Abhiram Pangi

....

Petitioner

Mr. P. Mohapatra, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
09.09.2022

Order No.

02.

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 accused in T.R. Case No.107 of 2020 corresponding to Malkangiri P.S. Case No.340 of 2020, pending before the Court of learned Additional Sessions Judge-cum-Special Judge, Malkangiri, for alleged commission of offences under Section 20(b)(ii)(C)/25 of NDPS Act.
4. Being aggrieved by the Rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special Judge, Malkangiri, by order dated 25.03.2022 in the aforementioned case, the present BLAPL has been filed.
5. Admittedly trial has commenced. Learned counsel for the petitioner submits that the allegations taken at the face value relying

on the F.I.R. and the seizure list, it is manifestly clear that the same are highly improbable. Relying on the statements, more particularly that of P.Ws.4 & 7 (official witnesses), learned counsel for the petitioner submits that conscious exclusive possession cannot be attributed to the petitioner. Hence, it is submitted with vehemence that the Bar under Section 37 of the NDPS Act is not attracted and further continuance of the petitioner in custody is punitive.

6. Per contra learned counsel for the State submits that out of fifteen charge-sheeted witnesses only seven have been examined. Hence, it cannot be said that the petitioner is innocent nor the contention of improbability can be considered at this stage.

7. This Court carefully considered the contention of the learned counsel for the petitioner and perused the statements of P.Ws.4 & 7. On consideration of the material on record, this Court is not persuaded to hold that conscious exclusive possession cannot be attributed to the petitioner at this stage as submitted.

Even accepting the submission of the learned counsel for the petitioner, any finding of this Court at this stage regarding the complicity of the petitioner on the basis of statements of witnesses is undoubtedly going to affect the ongoing trial. Hence this Court is not persuaded to consider the same and release the petitioner at this stage.

8. Since the petitioner is stated to be in custody since 20.09.2020, the learned Court in seisin over the matter shall do well to conclude the trial within a period of three months from the date of receipt/production of the copy of this order.

9. In the event trial is not concluded within the time frame, it shall be open to the petitioner to renew his prayer, more so in view of the fact, as according to the learned counsel for the petitioner that there are no admissible materials to implicate the petitioner.

10. Accordingly, the BLAPL stands disposed of.

(V. NARASINGH)
Judge

Ayesha

