

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2313 of 2021

Dhanurjaya Bain

....

Petitioner

Mr. R.L. Pattnaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
18.04.2022

Order No.

07.

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 Special T.R. Case No.90 of 2020, on the files of learned Sessions Judge-cum-Special Judge, Malkangiri, arising out of Motu P.S. Case No.59 of 2020, under Sections 20(b)(ii)(c) of the NDPS Act and is in custody since 01.09.2020.
4. 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 dated 03.09.2020 in the aforementioned case, the present BLAPL has been filed.

5. Learned counsel for the petitioner places reliance in the orders passed by this Court date 30.03.2022 in BLAPL No.2210 of 2021, in which the co-accused was pillion rider of the vehicle from which contraband seized was enlarged on bail.

6. Learned counsel for the State rebut such submission and states that the petitioner cannot said to be at par with the accused, who was the pillion rider and in view of bar under Section 37 of the NDPS Act the petitioner's BLAPL is liable to be rejected.

7. Taking into account the release of the co-accused and that the petitioner is in custody since 01.09.2020, in view of the law laid down by the Apex Court in the case of *Hussainara Khatoon & Ors vs. State of Bihar* reported in *1979 AIR 1369*, this Court directs petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter the petitioner directed to be released on bail.

8. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi