

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2543 OF 2021

Ashok Kumar Behera

..... *Petitioner*
Mr. J.K. Panda, 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 2(a) C.C. Case No. 08 of 2021 corresponding to EI & EB Unit-II, Cuttack P.R. Case No. 150 of 2020-21, pending on the file of the learned Sessions Judge-cum-Special Judge, Cuttack for the alleged commission of offence under Sections-20(b)(ii)(C) of the NDPS Act and the petitioner is in custody since 25.02.2021.
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, Cuttack by Order dtd. 24.03.2021 in 2(a) C.C. Cas No. 08 of 2021, 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 states that from the manner of seizure the exclusive conscious possession cannot be attributed to the petitioner and hence the bar under Section-37 of the NDPS Act ought not to deter the Court from considering the bail application of the petitioner.

6. Learned counsel for the State referring to the statutory prescription and the seizure memo submits that since it is beyond the commercial quantity, the bail application ought to be rejected.

7. Considering the nature and manner of seizure from the petitioner, the exclusive conscious possession cannot be readily attributed to him and the petitioner is in custody since 25.02.2021.

8. Accordingly this Court directs that the petitioner shall be released on bail in connection with 2(a) C.C. Case No. 08 of 2021 corresponding to EI & EB Unit-II, Cuttack P.R. Case No. 150 of 2020-21, pending on the file of the learned Sessions Judge-cum-Special Judge, Cuttack, on such terms to be fixed by the Learned Court in seisin of the matter.

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

10. The BLAPL thus stands disposed of.

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

(*V.Narasingh*)
Judge

Balaram