

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2568 OF 2021

Vikash Dahiya @ Vikash

..... *Petitioner*
Mr. Jagabandhu Sahoo, Sr. 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 G.R. Case No. 36 of 2021 corresponding to Mathili P.S. Case No. 42 of 2021, 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 07.03.2021.
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, Malkangiri by Order dtd. 08.03.2021 in spl. G.R. No. 36 of 2021, the present BLAPL has been filed.

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

5. Learned Senior Counsel for the petitioner submits that there has been patent violation of Section-42 and 50 of the N.D.P.S. Act and independent seizures have been clubbed together so as to attract the bar under Section-37 of the NDPS Act and on bare perusal, it cannot be seen that the statement of the witnesses have been mechanically recorded, for which the petitioner is entitled to be released on bail.

6. It is further submitted that from the charge-sheet, it can be seen that the complicity of the owner of the Toyota Corolla vehicle in which the petitioner was travelling has not been established and since the investigation has been kept open under Section-173(8) of the Cr.P.C, it is asserted that there is no material on record to establish the complicity of the petitioner and as such he is entitled to be released on bail.

7. Per contra, the learned counsel for the State refutes the submission relating to violation of Section-42 and 50 of the NDPS Act and seeks dismissal of the bail application on account of the bar contained in Section-37 of the NDPS Act.

8. Taking into account the quantity of seizure of the contraband being to the tune of 138Kg 300grams (net weight), in view of the bar contained in Section-37 of the NDPS Act, this

Court is not inclined to entertain the application for bail at this stage. Accordingly, the BLAPL is thus stands rejected.

9. It is open for the petitioner to move this Court at a later stage, if so advised.

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

Balaram

*(V.Narasingh)
Judge*

