

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2646 OF 2021

Soubhagya Behera @ Soubhagya Behera

***..... Petitioner
Mr. A.K. Pattanaik, Adv.***

-versus-

State of Odisha

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

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
10.03.2022**

Order No.
08

1. This matter is taken up through Hybrid Mode.
2. The petitioner, who is in custody since 28.02.2021 in connection with C.T. Case No. 11 of 2021, arising out of Balliguda P.S. Case No. 42 of 2021 pending on the file of learned Special Judge-cum-Additional Dist. & Sessions Judge, Balliguda, Kandhamal, commission of alleged offence punishable under Sections 20 (b)(ii)(C)/25/29 NDPS Act.
3. Assailing the rejection of the petitioner's bail application No. C.T. 11 of 2021 by the learned Special Judge-cum-Addl. Dist. & Sessions Judge, Baliguda, Khandhamal by order dtd. 05.03.2021, the present BLAPL has been preferred.
4. Heard learned counsel for the petitioner and learned counsel for the State.
5. It is contended by the learned counsel for the petitioner that, on 01.03.2021 because of the ongoing Pandemic as no public

transport was available, he sought a lift in the vehicle in question bearing Regd. No. OD-02- AA-4122 to come to Bhubaneswer along with two other persons and on the way the vehicle was intercepted by the police and as ill luck would have it the contraband material i.e., 'Ganja' to the tune of 41 Kgs 300 gram was detected in the boot of the vehicle.

6. It is stated with vehemence the petitioner was not aware of such contraband being carried in the vehicle and he is a victim of the circumstances.

7. Learned counsel for the State opposes the prayer for bail, inter alia on the ground that, the seized contraband is beyond permissible limit and there is nothing on record to substantiate contention of the petitioner regarding his innocence.

8. Taking into account, the period of detention and the circumstances in which the petitioner is stated to have used the vehicle as a passenger, keeping in view the non-availability of public transport in the Pandemic times, this Court is of the considered opinion that it cannot be stated that the petitioner is in conscious possession of the contraband Ganja

9. Accordingly, this Court directs that the petitioner shall be released on bail in connection with C.T. Case No. 11 of 2021, arising out of Balliguda P.S. Case No. 42 of 2021, pending on the file of learned Special Judge-cum-Additional Dist. & Sessions Judge, Balliguda, Kandhamal, on such terms to be fixed by the learned Court below in seisin of the matter.

10. It is made clear that the order shall not be treated as precedent so far as the other two petitioners are concerned, the case is to be taken up on its own merits.

11. The BLAPL is disposed of accordingly.

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

Balaram

*(V.Narasingh)
Judge*

