

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2867 of 2021

Banchanidhi Sahu

....

Petitioner

Mr. R.L. Pattnaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
12.04.2022

Order No.

07.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned Additional Standing counsel for the State.
3. The petitioner is an accused in Special G.R. Case No.38 of 2021, on the files of learned Sessions Judge-cum-Special Judge, Malkangiri, arising out of Orkel P.S. Case No.48 of 2021, under Sections 20(b)(ii)(c) and 25 of the NDPS Act and is in custody since 11.03.2021.
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 15.03.2021 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that the basis of implication is the detention of his vehicle from which the

contraband was seized and from the documents seized from the vehicle, on the basis of the details as reflected in the portal of the Motor Vehicle Department, the petitioner has been arrayed as accused being the owner.

6. It is submitted by the learned counsel for the petitioner that he has no criminal proclivity and that he has been only entangled, since the driver of the vehicle was carrying contraband without his knowledge.

7. The learned counsel for the State while not disputing the factual aspect as to the basis of implication of the petitioner submits that taking into account the quantity of ganja seized, at this stage, it cannot be said that the petitioner had no knowledge. As such, in view of the bar under Section 37 of the NDPS Act the petitioner is not entitled to be released on bail.

8. Considering the materials on record and the basis of implication as the petitioner is in custody since 11.03.2021 and trial has not commenced, in view of the law laid down by the Apex Court in the case of *Hussainara Khatoon & Ors vs. Home Secretary, State of Bihar* reported in *1979 AIR 1369, 1979 SCR (3) 532*, this Court directs petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi