

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2919 OF 2021

Lajara Digal

..... *Petitioner*
Mr. S.D. Das, Sr. Adv. &
Mr. Haripad Mohanty, Adv.

-versus-

State of Odisha

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

CORAM:
JUSTICE V. NARASINGH

ORDER
30.03.2022

Order No.
05.

1. This matter is taken up through Hybrid Mode.
2. The petitioner is an accused in connection with C.T. Case No. 15 of 2021 corresponding to Baliguda P.S. Case No. 45 of 2021, pending on the file of the learned Special Judge-cum-Addl. District & Sessions Judge, Baliguda for the alleged commission of offence under Sections-20(b)(ii)(C)/25/29 of the NDPS Act and the petitioner is in custody since 06.03.2021.
3. Being aggrieved by the rejection of his application for bail U/s. 439 Cr.P.C. by the learned Special Judge-cum-Addl. District & Sessions Judge, Baliguda by Order dtd. 15.03.2021 in C.T. No. 15 of 2021, the present BLAPL has been filed.

4. Heard Mr. S.D. Das, learned Senior Counsel instructed by Mr. H.Mohanty, for the petitioner and learned Additional Standing Counsel for the State.

5. Learned Senior Counsel places reliance on the orders passed by this Court dtd. 24.02.2022 in BLAPL No. 8005 of 2021 and order dtd. 09.03.2022 in BLAPL No. 10092 of 2021 in respect of the co-accused and inter alia on the ground of parity prays for exercise of jurisdiction of this Court under Section-439 of the Cr.P.C..

6. It is alleged that the present petitioner was driving a red colour TVS Scooty bearing Registration No. OD-12-C-4315 and was escorting the vehicle containing contraband, which was a Auto-rickshaw.

7. It is submitted that the manner in which the seizure has been effected it cannot be said that the petitioner is in conscious exclusive possession.

8. Learned counsel for the State on the other hand submits that the contraband seized being beyond the permissible limit, the bar under Section-37 of the NDPS Act operates and as such the petitioner is not entitled to any relief and it is also asserted that because of the role played by the petitioner in trying to facilitate

the transport of Ganja, he cannot be said to be at par with the other accused persons whose bail applications were allowed in the aforementioned BLAPLs.

9. On a conspectus material on record and taking into account the orders passed considering the submissions of the parties, this Court directs the petitioner to be released on bail in connection with C.T. Case No. 15 of 2021 corresponding to Baliguda P.S. Case No. 45 of 2021, pending on the file of the learned Special Judge-cum-Addl. District & Sessions Judge, Baliguda, on such terms to be fixed by the Learned Court in seisin of the matter.

10. The BLAPL thus stands disposed of.

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

Balaram

(*V.Narasingh*)
Judge