

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**BLAPL No. 3124 OF 2021**

***Tuna Swain***

..... ***Petitioner***  
***Mr. S.S. Ray(2), Adv.***

***-versus-***

***State of Odisha***

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

**CORAM:**  
**JUSTICE V. NARASINGH**

**ORDER**  
**25.04.2022**

**Order No.**  
08.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. S.S.Ray (2), learned counsel for the petitioner and Mr. K.K.Gaya, learned Additional Standing Counsel for the State.
3. The Petitioner is an accused in connection with C.T. Case No.12 of 2021 arising out of Daringibadi P.S. Case No. 43 of 2021 on the file of learned Special Judge-cum-ADJ, Baliguda registered for the alleged commission of offence under Sections 20(b)(ii)(C)/25/29 of the NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s 439 Cr.P.C. by the learned Special Judge-cum-ADJ, Baliguda by order dated 22.03.2021, the present BLAPL has been filed

5. Learned counsel for the petitioner submits that he was travelling as a passenger in Tata Indica from which the contraband was seized.

6. Relying on the recitals of the F.I.R. it is stated that the other two, who were in the said vehicle ran away once the vehicle was detained, and the petitioner who had no inkling regarding the contraband being carried in the vehicle is a victim of the circumstances and his very conduct of not running away is a testimony of his innocence.

7. Learned counsel for the State relying on the Bar contained under Section 37 of the NDPS Act, seeks rejection of the bail.

8. Taking into account the circumstances under which the petitioner was detained, this court is of the prima facie of view that conscious exclusive possession cannot be attributed to the petitioner.

9. Taking into account the submission of learned counsel for the petitioner that he has no criminal proclivity and the trial has not commenced, this Court directs the Petitioner shall be released on bail on such terms to be fixed by the learned court in seisin over the matter.

10. It shall be open to the learned Special Judge to verify the veracity of the submission regarding criminal antecedent. If it is found that there was criminal antecedent vis-à-vis the petitioner, the order of granting bail will stand recalled automatically without any further reference to this Court.

11. Accordingly, the BLAPL stands disposed of.
12. Issue urgent certified copy of this order as per Rules.

*( V.Narasingh )*  
*Judge*

*Dhal*

