

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4093 of 2022

Muni Digal

....

Petitioner

Mr. M. Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

28.07.2022

Order No.

02.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is accused in connection with C.T. Case No.46 of 2021, on the files of learned Additional District and Sessions Judge, Balliguda, arising out of Sarangada P.S. Case No.81 of 2022 under Sections 20(b)(ii)(C), 25 and 29 of the NDPS Act and is in custody since 30.04.2022.
4. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Additional District and Sessions Judge, Balliguda, by order dated 05.05.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that the petitioner was not at the spot that admittedly no seizure was

effected from the petitioner and he has been implicated on the basis of statement of one of the co-accused Susant Ku. Dash. And, on the basis of such statement he has taken into custody on 30.04.2022.

6. And, it is submitted that as such conscious exclusive possession cannot be attributed to the petitioner.

7. Learned counsel for the State opposes the prayer for bail stating inter alia that in view of the bar contend under Section 37 of the NDPS act, it is not open to the Court to make an assessment of the materials on record vis-à-vis accused at this stage.

8. Considering that the accusation is on the basis of co-accused statement and keeping in view law laid down by the Apex Court in the case of *Tofan Singh vs. State of Tamil Nadu*, reported in *(2020) 80 OCR 641*, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned 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