

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 3403 OF 2021

Sk.Sagir

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

-versus-

State of Odisha

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

CORAM:
JUSTICE V. NARASINGH

ORDER
20.04.2022

Order No.

12.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the parties.
3. The Petitioner is an accused in connection with T.R. Case No.15 of 2020-21 arising out of Burla P.S. Case No. 213 of 2021 on the file of learned Sessions Judge-cum-Special Court, Sambalpur, registered for the alleged commission of offence under Sections 20(b)(ii)(C)/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 Sessions Judge, Phulbani by order dated 20.04.2021, the present BLAPL has been filed.
5. Learned counsel for the Petitioner submits that he was travelling in the vehicle from which the contraband was seized and states that from the manner of seizure it cannot be said that the petition is in conscious exclusive possession.

6. Learned counsel for the State referring to the order of this Court dated 24.08.2021 in BLAPL No.3744 of 2021 submits that since the accused No.2 therein who is similarly circumstanced with the present Petitioner did not press his bail application as such the present BLAPL does not merit consideration of the Court.

7. It is started at the Bar that the trial has not commenced.

8. Taking into account submission that the petitioner is in custody since 7.04.2021 and that trial has not commenced, in view of the law laid down by the Apex Court in the case of **Hussainara Khatoon & Others Vs. State of Bihar**, reported in 1979 AIR 1369, this Court directs that the Petitioner shall 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. Issue urgent certified copy of this order as per Rules.

(V.Narasingh)
Judge

Dhal