

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 3431 OF 2021

Tukuna Behera

..... ***Petitioners***
Mr. A.U.Senapati, Adv.

-versus-

State of Odisha

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

CORAM:
JUSTICE V. NARASINGH

ORDER
07.04.2022

Order No.
06.

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 2(a)CC No.9 of 2021 corresponding to PR No. 28 of 2021 on the file of learned Special Judge, Phulbani, registered for the alleged commission of offence under Sections 20(b)(ii)(C) of the NDPS Act. The petitioner is in custody since 21.03.2021
4. Being aggrieved by the rejection of his application for bail U/s 439 Cr.P.C. by the learned Special Judge, Phulbani by order dated 6.04.2021, the present BLAPL has been filed.
5. Learned counsel for the petitioner states that the petitioner is the driver of the vehicle from which contraband was seized and that he has no criminal proclivity. From the quantity of the contraband seized it is submitted that erroneous weightment

cannot be ruled out so as to bring the quantity within the bar under Section 37 of the NDPS Act.

6. Learned counsel for the State referring to the recitals in the case diary submits that the plea of innocence as advanced cannot be taken into consideration at this stage in view of the bar prescribed under Section 37 of the NDPS Act.

7. Taking into account that the petitioner is the driver of the vehicle and the quantity of contraband seized and the period in custody and since it is stated at the bar that the petitioner has no criminal proclivity, this Court directs that the petitioner is to be released on bail on such terms to be fixed by the learned court in sesisin of the matter.

8. Accordingly, the BLAPL stands disposed of.

9. Issue urgent certified copy of this order as per Rules.

(V.Narasingh)
Judge

Dhal