

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4045 of 2021

N. Prabati Reddy

....

Petitioner

Mr. B.N. Mohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

29.03.2022

Order No.

04.

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 an accused in Spl. G.R. Case No.07 of 2021, on the files of learned Additional Sessions District-cum-Special Judge, Bhanjanagar, Ganjam, arising out of Bhanjanagar P.S. Case No.88 of 2021, U/s.20(b)(ii)(c) of N.D.P.S Act and he is in custody since 06.03.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special Judge, Bhanjanagar, by order dated 10.06.2021 in the aforementioned case, the present BLAPL has been filed.

5. Learned counsel for the petitioner also relied on the order passed by this Court dated 07.03.2020 in BLAPL No.8291 of 2021 of co-accused K.S. Reddy and sought interference on the ground of parity.

6. Learned counsel for the petitioner states that the manner in which seizure has been effected conscious possession of contraband cannot be attributed to the petitioner.

7. Refuting such submission learned counsel for the State seeks dismissal of the BLAPL on account of bar under Section 37 of the NDPS Act.

8. Considering such submissions and taking into account the order of this Court in respect of co-accused refer to above, this Court is of the considered opinion that it cannot be said with certainty that the petitioner is in exclusive conscious possession of the seized contraband. And further considering that the petitioner is in custody since 06.03.2021, this Court directs the release of the petitioner on bail on such terms to be fixed by the Court in seisin of 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