

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 4177 OF 2021

Vishnu Kumar & another

..... ***Petitioners***
Mr. P.K.Mishra, Adv.

-versus-

State of Odisha

..... ***Opposite Party***
Mr. D.Mund, AGA

CORAM:
JUSTICE V. NARASINGH

ORDER
04.04.2022

Order No.
06.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the parties.
3. Considering the nature of the accusation, the bail application so far as Petitioner No.2 (Fateh Chand) is rejected.
4. The Petitioner No.1 is an accused in connection with T.R. Case No. 50 of 2021 on the file of the learned Additional Sessions Judge-cum-Special Judge, Gunupur, corresponding to Bissam- cuttack P.S. Case No. 39 of 2021 under Sections 20(b)(ii)(C) of the NDPS Act.
5. 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, Gunupur by order dated 9.04.2021, the present BLAPL has been filed.
6. Learned counsel for the Petitioner submits that Petitioner No.1 (Vishnu Kumar) is the driver and he had no knowledge

about the contraband being carried in the vehicle, is a victim of the circumstances and considering his age, he is entitled to be released on bail since he is in custody since 22.03.2021.

7. Per contra, the learned counsel for the State submits that the Petitioner No.1 is not entitled to any consideration as a driver of the vehicle, since the vehicle stands in the name of his wife. So the plea of the learned counsel of innocence vis-à-vis Petitioner No.1 does not merit consideration of this Court More so, in view of Bar under Sec. 37 of the NDPS Act.

8. Taking into account the nature of the seizure conscious and exclusive possession cannot be attributed to the Petitioner and that the Petitioner is in custody since 22.03.2021 and his age and being cognizant of the fact that trial has not commenced this Court directs that the Petitioner No.1 to be released on bail on such terms to be fixed by the court in seisin over the matter. In addition thereto Petitioner No. 1 is directed to furnish two local sureties.

9. Accordingly, the BLAPL is disposed of.

10. Issue urgent certified copy of this order as per rules.

(V.Narasingh)
Judge

Dhal