

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 4588 OF 2021

Abhimanyu Jena

..... ***Petitioner***
Mr. Anirudha Das, Adv.

-versus-

State of Odisha

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

CORAM:
JUSTICE V. NARASINGH

ORDER
25.04.2022

Order No.
04.

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 G.R. Case No.8 of 2021(N) arising out of Berhampur P.S. Case No. 8 of 2021 on the file of learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur registered for the alleged commission of offence under Sections 20(b)(ii)(C) 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-cum-Special Judge, Ganjam, Berhampur by order dated 26.05.2021, the present BLAPL has been filed
5. Learned counsel for the petitioner referring to the description in the F.I.R. submits that the prosecution itself has stated the possession of the petitioner as “de-facto”. It is further submitted by learned counsel for the petitioner that the petitioner

to earn his livelihood works as a staff and on being asked he carried the bag and kept it in the ear-marked area without any idea of its content. Hence, it is submitted that the conscious exclusive possession cannot be attributed to the petitioner.

6. Learned counsel for the State opposes the move for bail in view of the bar contained under Section 37 of the NDPS Act.

7. Taking into account the manner of accusation and the role ascribed to the petitioner it cannot be said with certainty that conscious exclusive possession is attributable to the petitioner.

8. Taking note of submission of the learned counsel for the petitioner that the petitioner has no criminal proclivity and the trial has not commenced, 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. While enlarging the petition on bail, learned court below shall find out as to whether the petitioner has any criminal antecedent. If such antecedents come to the fore, the present order granting bail will stand recalled automatically without any further reference to this Court.

10. Accordingly, the BLAPL stands disposed of.

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

(V.Narasingh)
Judge