

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4682 OF 2021

Gora Dushura Barik

..... *Petitioner*
Mr. R.N. Biswal, Adv.

State of Odisha

-versus-

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

CORAM:
JUSTICE V. NARASINGH

ORDER
05.05.2022

Order No.
07.

1. This matter is taken up through Hybrid Mode.
2. The petitioner is an accused in connection with T.R. Case No. 31 of 2021 on the file of the Learned Addl. Sessions Judge-Cum- Special Judge, Koraput, arising out of Koraput Town P.S. Case No. 74 of 2021, for commission of alleged offence under Sections-20(b)(ii)(C)/29 of N.D.P.C., Act.
3. Being aggrieved by the order dtd. 26.05.2021 passed by the Learned Addl. Sessions Judge-Cum- Special Judge, Koraput in T.R. Case No. 31 of 2021, rejecting the bail application of the petitioner, the present BLAPL has been filed.
4. Heard Mr. R.N. Biswal, learned counsel for the petitioner and Mr. K.K. Gaya, learned Additional Standing Counsel for the State.

5. Learned counsel for the petitioner submits that the petitioner is similarly circumstanced with co-accused one Nikodini Turuk granted bail by this Court in BLAPL No. 4181 of 2021 by Order dtd. 16.02.2022 and Aditya Sahu granted bail on the self same date in BLAPL No.4185 of 2021 and one Rajesh Adkatia was granted bail by the order of this Court dtd. 08.04.2022 in BLAPL No. 4442 of 2021 and seeks interference of this Court inter alia on the ground of parity.

6. Learned counsel for the petitioner on the basis of materials submits that accepting the allegation at their face value, there has been no seizure from the vehicle of the petitioner i.e., ALTO bearing Regd. No. OD-02P-1044 and there are material on record which clearly reveals that the contraband to the tune of 1752 Kg.200 Grams Ganja was seized from the Truck and the Bolero and referring to the recitals in the FIR, it is submitted that the petitioner was an occupant in the Alto vehicle and basis of implication is the co-accused Statements and since he is in custody since 11.03.2021 he is entitled to be released on bail.

7. Learned counsel for the State opposes move for bail while not disputing the facts that the petitioner was travelling in a Alto Car from which no seizure has been effected but it is submitted that at this stage, it is not open for the Court taking into account the plea of innocence as advanced by the learned counsel for the petitioner, in view of bar Under Section 37 of the NDPS Act.

8. Taking into account that the charge-sheet has already been filed and the petitioner is in custody since 11.03.2021 and the basis of implication is on the ground of co-accused statement, and the orders passed by this Court referred to above in the case of co-accused and in the light of the judgment of the Apex Court in the Case of *Tofan Singh Vs. State of Tamilnadu* reported in *(2020) 80 OCR (SC)-641*, this Court directs the petitioner shall be released on bail, on such terms to be fixed by the learned Court in seisin over the matter with the additional condition that, after release on bail the petitioner will report before the Pottangi Police Station once every Monday between 11.00 A.M. to 1.00 P.M for a period of one year or till commencement of trial, whichever is earlier.

9. The Bail Application thus stands disposed of.

10. Urgent certified copy of this order be granted as per rule.

Balaram

(V.Narasingh)
Judge