

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 4745 OF 2021

Biplaba Digal

..... ***Petitioner***
Mr. A.R.Panda, Adv.

-versus-

State of Odisha

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

CORAM:
JUSTICE V. NARASINGH

ORDER
05.04.2022

Order No.
05.

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 Phiringia P.S. Case No. 32 of 2021 corresponding to C.T. Case No.22 of 2020 on the file of learned District & Sessions Judge-cum-Special Judge, Phulbani, registered for the alleged commission of offence under Sections 20(b)(ii)(C)/25/29 of the NDPS Act. The petitioner is in custody since 15.03.2021
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, Phulbani, by order dated 6.04.2021, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that petitioner is a driver of the Auto Rickshaw bearing Registration No. OD-33-6896 from which contraband article was seized. It is asserted that

as a driver earning his livelihood he could not have prevented the passengers sitting in the Auto Rickshaw carrying their luggage, which to his ill luck found to be contraband beyond the permissible limit. It is submitted since the petitioner is a victim of the circumstances and hence he be released on bail.

6. Learned counsel for the State referring to the quantity seized i.e. 42 Kgs.800 gms. being beyond the permissible limit invoke the Bar under Section 37 of the NDPS Act and opposes the prayer for grant of bail.

7. Taking into account the circumstances in which seizure has been made and the role ascribed to the petitioner, exclusive conscious possession cannot be attributed to him. It is also stated at the Bar that trial has not commenced though Charge-sheet has been filed on 19.7.2021.

8. On consideration of the period of custody of the accused and taking note of the submissions of the learned counsel for the petitioner that he has no criminal antecedent, this Court directs that the Petitioner be released on bail on such terms to be fixed by the court in seisin of the matter including that the Petitioner shall appear before the jurisdictional Police Station once every month. The date of such appearance to be fixed by the learned court below.

9. Accordingly, the BLAPL stands disposed of.

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

(V.Narasimha)
Judge

