

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No. 4823 of 2021**

***Sujaya Haldar***

....

***Petitioner***

Mr. R.L. Pattnaik, Advocate

*-versus-*

***State of Odisha***

....

***Opposite Party***

Mr. Karunakar Gaya, ASC

**CORAM: JUSTICE V. NARASINGH**

**ORDER**  
**19.04.2022**

**Order No.**

**03.**

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 T.R. Case No.32 of 2020, on the files of learned Additional District Sessions Judge-cum-Special Judge, Umerkote, Nabarangpur, arising out of Umerkote P.S. Case No.212 of 2020, under Sections 20(b)(ii)(c) and 29 of the NDPS Act and is in custody since 19.06.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional District Sessions Judge-cum-Special Judge, Umerkote, Nabarangpur, by order dated 19.06.2021, in the aforementioned case, the present BLAPL has been filed.

5. Learned counsel for the petitioner submits that the FIR in respect of the contraband seized was lodged on 15.09.2020, wherein eight persons were cited as accused and on the basis of the statement of co-accused Srivas Sana and Satyam Kumar Sharma who have been cited as FIR named accused No.1 and 2, the petitioner was apprehended on 19.06.2021. On the basis of the charge sheet, it is submitted that contraband was admittedly seized from the house of one Praveer Das@ Praveen@Budun who is accused No.6 in the FIR. It is submitted at the bar since implication is on the basis of co-accused statement and the charge sheet has already been filed, the bar under Section 37 of the NDPS Act won't come into play in the case at hand.

6. Learned counsel for the State opposes the prayer for bail, while fairly not disputing that the basis of implication is the co-accused statement and that recovery is from the house of Praveer Das@ Praveen@Budun whose bail application rejected by this Court in order dated 24.11.2021 in BLAPL No.5747 of 2021.

7. It is further submitted by the learned counsel for the State that from the manner in which the petitioner conducted himself, it cannot be said at this stage that the petitioner has no complicity and therefore, in view of the bar under Section 37 of NDPS Act, the petitioner is not entitled to be released on bail.

8. Taking into account that the seizure is from the house of the co-accused and the basis of implication is co-accused statement, this Court, keeping in view the law laid down by the Apex Court in the Case of *Toffan Singh vs. The State of Tamil Nadu* reported in (2020) Vol.80 OCR 641= (2013) 16 SCC, directs the petitioner to

be released on bail on such terms to be fixed by the Court in seisin of the matter.

9. The present BLAPL is disposed of accordingly.
10. Urgent certified copy of this order be granted as per rules.

**(V. NARASINGH)**

***Judge***

***Santoshi***

