

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5886 of 2022

Babula Batagaria

....

Petitioner

Mr. M. Padhy , Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

29.07.2022

Order No.

02.

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 connection with T.R. Case No.24 of 2022, on the files of learned Additional Sessions Judge-cum-Special Judge, Koraput, arising out of Machhakund P.S. Case No.14 of 2022 under Sections 20(b)(ii)(c)/25/29 of the NDPS Act.
4. 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, Koraput, by order dated 17.05.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is alleged that five persons were transporting contraband ganja weighing 75kgs 700 grams in three motorcycles when they were apprehended by police. In so far as the petitioner is concerned 26 kgs of contraband ganja was recovered from his possession. It is submitted that the statutory formalities were not complied before

search and seizure and the method of weighment of the seized article is also questionable.

6. Learned counsel for the petitioner also submits that this Court by order dated 29.06.2022 (BLAPL No.5494 of 2022) has granted bail to one Promod Mangaraj. Hence it is submitted that the petitioners bail application merits consideration inter alia on the ground of parity.

7. Learned counsel for the State opposes such prayer keeping in view the bar contained in Section 37 of the NDPS Act and submits that in view of seizures it is submitted that it is not permissible to canvass innocence as done by the petitioner.

8. Taking into consideration the above facts, the materials on record and the period of detention of the petitioner in custody, this Court is inclined to allow the prayer for bail. Let the petitioner be released on bail on such terms and conditions as the court in seisin over the matter may deem fit and proper to impose including the condition that he shall personally appear before the trial Court on each date of posting of the case without fail.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi