

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 5143 OF 2021

Kanhu Nayak @ Sangram

..... ***Petitioner***
Mr. P.K.Routray, Adv.

-versus-

State of Odisha

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

CORAM:
JUSTICE V. NARASINGH

ORDER
27.04.2022

Order No.
04.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.
3. The Petitioner is an accused in connection with G.R. Case No.57 of 2021 arising out of Udayagiri P.S. Case No. 46 of 2021 on the file of learned Special Judge, Gajapati, Paralakhemundi, registered for the alleged commission of offence 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 Special Judge, Gajapati, Paralakhemundi by order dated 17.06.2021, the present BLAPL has been filed
5. Learned counsel for the State submits that he is an innocent passenger in the vehicle which was carrying contraband beyond permissible limit.

6. On perusal of the materials on record it is seen that one Satish Kumar, other co-accused is the owner-cum-driver of the vehicle from which the contraband was seized.

7. It is submitted by the learned counsel for the petitioner that because of lack of transport due to onset of COVID the petitioner took a lift in the vehicle, but as ill luck would have it, it was found that the vehicle was carrying contraband and therefore, it is submitted that the petitioner is the victim of the circumstances and conscious exclusive possession cannot be attributed to him.

8. Learned counsel for the State opposes the prayer for bail. Relying on the recitals, it is stated that at the stage of consideration of bail it is not permissible to scrutinize role of each of the accused persons in view of the bar contained under Section 37 of the NDPS Act.

9. On a conspectus of materials on record and taking into account that the petitioner is in custody since 9.04.2021 and that trial has not commenced and also the factum of the petitioner being a local person, 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.

10. It is needless to state here that so far as the bail application of other accused persons are concerned, the same to be considered on the basis of materials on record and the present BLAPL shall not be treated as a precedent.

11. Accordingly, the BLAPL stands disposed of.

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

(V.Narasimha)
Judge

Dhal

