

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5227 OF 2021

Sarojit Daphadar

***..... Petitioner
Mr. Debasis Biswal, Adv.***

-versus-

State of Odisha

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

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
22.04.2022**

Order No.
03.

1. This matter is taken up through Hybrid Mode.
2. The petitioner is an accused in connection with Special G.R. Case No. 8 of 2021 on the file of the Learned Sessions Judge-cum-Special Judge, Malkangiri, arising out of Orkel P.S. Case No. 10 of 2021, for commission of alleged offence under Sections-20(b)(ii)(C) of N.D.P.S., Act and he is in custody since 11.01.2020.
3. Being aggrieved by the order dtd. 12.01.2021 passed by the Learned Sessions Judge-cum-Special Judge, Malkangiri in Special G.R. No.08 of 2021, rejecting the bail application of the petitioner, the present BLAPL has been filed.
4. Heard Mr. D. 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 he was driving the bike from which the contraband was seized. And submits that, from the quantity of contraband seized, wrong weighment cannot be ruled out. From the manner of seizure conscious and exclusive possession cannot be attributed to him.

6. It is also stated that, taking into account the age of the petitioner, leniency ought to be shown as the petitioner is in custody since 11.01.2020 and the trial was not commenced.

7. Learned counsel for the State opposing the prayer for bail submits that in view of the bar under Section 37 of the NDPS Act, the plea of innocence as advanced cannot be considered by this Court at this stage.

8. On a conspectus of materials on record and taking into account the tender age of the petitioner and that trial has not commenced and keeping in view the law laid down by the Apex Court in the case of ***Hussainara Khatoon & Ors vs. State of Bihar*** reported in ***1979 AIR 1369***, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter.

9. The Bail Application thus stands disposed of.

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

(*V.Narasingh*)
Judge