

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5284 of 2021

Bipin Kumar Jha

....

Petitioner

Mr. S.R. Mohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
05.07.2022

Order No.

04.

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 C.T. Case No.04 of 2021(NDPS) arising out of Kesinga P.S. Case No.36 of 2021, pending on the files of learned Sessions Judge-cum-Special Judge, Kalahandi, Bhawanipatna under Sections 20(b)(ii)(C) of the NDPS Act and is in custody since 01.02.2021.
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, Kalahandi, by order dated 15.03.2021 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that from the manner of the seizure conscious exclusive possession cannot be attributed to the petitioner.

6. It is submitted that the petitioner is a victim of circumstances and further it is stated that though the petitioner is in custody since 01.02.2021 and because of the non-commencement of the trial he is entitled to be released on bail in view of the law laid down by the Apex Court in the case of ***Hussainara Khatoon & Ors vs. State of Bihar*** reported in ***1979 AIR 1369***.

7. Per contra the learned counsel for the State submits that there are no mitigating circumstances and in view of the bar contained under Section 37 of the NDPS Act, petitioner's bail application does not deserve consideration.

8. Taking into account the period of custody and the manner in which the petitioner has been implicated, this Court directs petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter so as to ensure his presence on each date of trial.

9. The BLAPL accordingly stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi