

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6300 OF 2022

Raghu Khilla

..... *Petitioner*
Mr. R.L. Pattnaik, Advocate

-versus-

State of Odisha

..... *Opposite Parties*
Mr. P. Pradhan, ASC

CORAM:
JUSTICE V. NARASINGH

ORDER
26.07.2022

Order No.

01.

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 Special G.R. Case No.25 of 2021 arising out of Mathili P.S. Case No.23 of 2021, pending on the file of the learned Sessions Judge-cum-Special Judge, Malkangiri for the alleged commission of offence under Section- 20(b)(ii)(B)/27-A of the N.D.P.S. Act..
4. Being aggrieved by the rejection of his application for bail U/s. 439 Cr.P.C. by the learned Sessions Judge, Malkangiri by Order dtd. 02.06.2022 in Special G.R. Case No.25 of 2021, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that on 07.02.2021 during night patrolling one Maruti Ertiga was stopped

and two of the accused persons were caught raid handed with contraband (ganja) to the tune of 128 Kgs 900 grams.

6. It is further submitted by the learned counsel for the petitioner that these are the basis of though the statement made by those six accused persons were apprehended on the basis of their statement, the present petitioner has been implicated. It is stated that since the basis of implication on account of co-accused statement, the petitioner is entitled to be released and in this connection places reliance in the judgment of the Apex Court in the case of *Tofan Singh Vs. State of Tamilnadu* reported in *(2020) 80 OCR (SC)-641*

7. Per contra, the learned counsel for the State submits that during search of the vehicle (Maruti Ertiga) car which stands in the name of one Ranjit Samal, one Bank Passbook of HDFC Bank in the name of the petitioner was found. Hence, it is stated that the pleas of innocence as advanced by the learned counsel for the petitioner cannot be taken into account and it is submitted with vehemence that the co-accused statement is not the sole basis of which the petitioner has been implicated hence, the decision in the case of *Tofan Singh (supra)* is not attracted in the case at hand, he also places reliance on the bar under Section-37 of the N.D.P.S. Act. In the case the petitioner does not merit consideration.

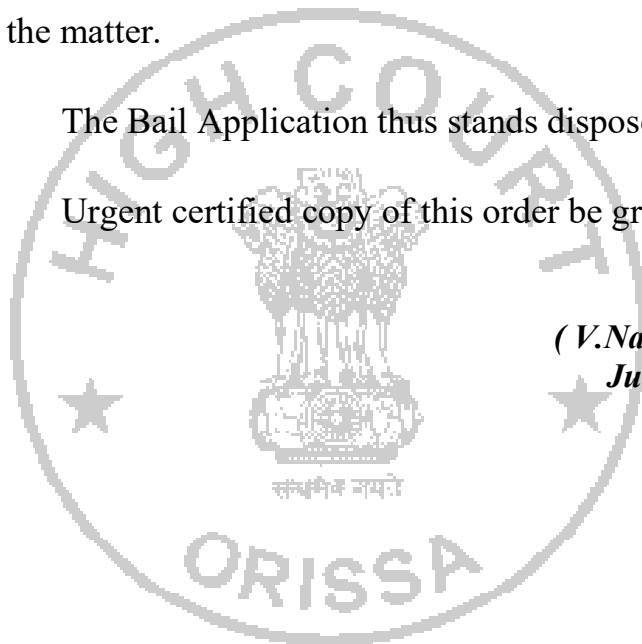
8. On perusal of the materials, it is seen that charge-sheet has already been filed in the meanwhile and the prima facie the implication is on account of the co-accused statement.

9. As noted since the primary reasons for implicating the petitioner is based on co-accused statement and taking into account the filing of charge-sheet, the period in custody, this Court directs that the petitioner to be released on bail on such terms and conditions to be fixed by the learned Court in seisin over the matter.

10. The Bail Application thus stands disposed of.

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

Balaram



(V.Narasingh)
Judge