

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5536 of 2021

Bisikeshan Satpathy

....

Petitioner

Mr. P.K. Sahoo, Advocate

-versus-

State of Odisha

....

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
19.04.2022

Order No.

03.

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 Special 2(a) CC Case No.04 of 2021, on the files of learned District and Special Judge, Sundargarh arising out of P.R. Case No.53 of 2021-22 of EI & EB Unit-II ND, Sambalpur, under Sections 20(b)(ii)(C) of the NDPS Act and is in custody since 11.06.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned District and Special Judge, Sundargarh, by order dated 01.07.2021 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that from the quantity of the contraband seized wrong weighment cannot be ruled

out, so as to bring it within the bar contained under Section 37 of the NDPS Act.

6. Per contra, learned counsel for the State on the basis of recitals in the case diary submits that the plea of innocence as advanced has no legs to stand from the manner of seizure and accordingly, submits that in view of the bar contend under Section 37 of the NDPS Act, the bail application of the petitioner does not merit consideration.

7. Taking into account the quantity of contraband and that the petitioner is in custody since 11.06.2021 that final P.R. has already been submitted in the meanwhile and that trial has not commenced, 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***, this Court directs petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter.

8. The present BLAPL is disposed of accordingly.

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

(V. NARASINGH)

Judge

Santoshi