

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6501 OF 2022

Aatish Ramjan Pathan

***..... Petitioner
Mr. D. Sahoo, Advocate
Mr. A.P. Bose, Advocate***

-versus-

State of Odisha

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

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
28.07.2022**

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 G.R. Case No. 16 of 2022 arising out of R. Udayagiri P.S. 16 of 2022, pending on the file of the learned Special Judge, Gajapati, Paralakhemundi for the alleged commission of offence under Section- 20(b)(ii)(C)/25/29 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 Special Judge, Gajapati by Order dtd. 10.03.2022 in G.R. No. 16 of 2022, the present BLAPL has been filed.

5. It is submitted by the learned counsel for the petitioner that the charge-sheet in the case has already been filed on 26.05.2022 and taking into account the manner in which the seizure has been effected from the boot of the vehicle, the conscious and exclusive possession of the contraband (Ganja) cannot be attributed to the petitioner. More so as the petitioner is the co-passenger of the said vehicle and he has no knowledge over the goods being carried in the vehicle.

6. Hence, it is submitted that, taking into account the period of custody, the petitioner to be enlarged on bail.

7. Learned counsel for the State opposes the prayer for bail inter alia relaying on the bar contained under Section-37 of the N.D.P.S. Act and also that since the flight risk releasing him would affect the impending trial.

8. It is stated at the bar that the trial in the case has not commenced.

9. Taking into account the period of custody, nature of accusation, manner of seizure and non-commencement of trial, keeping in view the law laid down by the Apex Court in the Case of ***Hussainara Khatoon & Others Vrs. State of Bihar***, reported in ***(1980) 1 SCC 81***, this Court directs the petitioner shall be released on bail on such terms to be fixed by the learned Court in seisin over the matter, with the additional stipulation that one of the sureties shall be the immediate family members of the

petitioner and it is directed that the petitioner shall appear before the Local Police Station once every month till the conclusion of the trial.

10. The Bail Application thus stands disposed of.

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

Balaram

*(V.Narasingh)
Judge*

