

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6678 of 2022

Karan Digal & Another

....

Petitioners

Mr. R.K. Pattanaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

17.11.2022

Order No.

02.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioners and learned counsel for the State.
3. The petitioners are accused in connection with Spl. G.R. Case No.03 of 2022, pending in the Court of the learned Additional Sessions Judge-cum-Special Judge, Bhanjanagar, arising out of Bhanjanagar P.S. Case No.19 of 2022, for alleged commission of offences under Section 20(b)(ii)(C) of NDPS Act.
4. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Special Judge, Bhanjanagar, by order dated 24.01.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted that the petitioners are in custody since 08.01.2022 and charge-sheet has been filed on 31.05.2022.

6. Learned counsel for the petitioners submit that since the seizure was from a public place namely bus stand, conscious exclusive possession cannot be attributed to the petitioners. Hence, the bar under Section 37 of the NDPS Act is not attracted.

7. Learned counsel for the State opposes the prayer for bail and submits that the defence of the petitioners in view of the quantity being 21.8Kgs cannot be entertained at this stage.

8. It is also further submitted by learned counsel for the petitioners that wrong weighment cannot be ruled out so as to attract the bar under Section 37 of the NDPS Act.

9. Taking into account that the petitioner No.1 is aged about 23 years and the petitioner No.2 is 60 years and the manner of accusation and quantity of contraband, this Court directs the petitioners to be released on bail. Learned Court in seisin over the matter to fix the terms so as to ensure the presence of the petitioners on each date of trial.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha