

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5849 of 2021

Subhankar Biswas

....

Petitioner

Mr. D.R. Bhokta, Advocate

-versus-

State of Odisha

....

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
21.04.2022

Order No.

06.

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 T.R. Case No.170 of 2020, on the files of learned Additional Sessions Judge-cum-Special Judge, Malkangiri, arising out of Kalimela P.S. Case No.165 of 2020, under Sections 20(b)(ii)(c) of the NDPS Act and is in custody since 13.12.2020.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special Judge, Malkangiri, by order dated 16.07.2021 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that from the nature of the allegations, conscious exclusive possession beyond

commercial quantity cannot be attributed to the petitioner submitted that the petitioner is in custody since 13.12.2020.

6. On a query the learned counsel for the State submits that petitioner had suffered ailment relating to acute Pancreatic complications in the month of November, 2021.

7. Learned counsel for the State referring to the seizure and the quantity of contraband submits that in view of the bar under Section 37 of the NDPS Act, it is not open to the petitioner to plead innocence at this stage.

8. Considering the submissions made by the respective counsels, taking into account that the petitioner is in custody since 13.12.2020 and his age and the ailment, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter.

9. The present BLAPL is disposed of accordingly.

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

(V. NARASINGH)
Judge

Santoshi