

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5851 of 2021

Damodar Nayak @ Naik

....

Petitioner

Mr. D.R. Bhokta, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

14.07.2022

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 G.R. Case No.57 of 2021, on the files of learned Sessions Judge-cum-Special Judge, Malkangiri, arising out of Mathili P.S. Case No.94 of 2021, under Sections 20(b)(ii)(c)/27-A of the NDPS Act and is in custody since 15.06.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the Sessions Judge-cum-Special Judge, Malkangiri, by order dated 18.06.2021 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that he was a pillion rider of a Bike bearing No.OD-304423 and which was being driven by one Haridas Madhi and it is stated that seizure of contraband from the said vehicle was to the tune of 22 kgs.

6. Learned counsel for the petitioner submits that the petitioner is in custody since 15.06.2021 and in the meanwhile charge sheet has been filed and it is brought to the notice of this Court that the driver of the Bike in question one Haridas Madhi was released on bail by order dated 04.03.2022 in BLAPL No.7722 of 2021.

7. Learned counsel for the State submits that in view of the quantity of contraband being more than the permissible limit, in view of the bar under Section 37 of the NDPS Act, the petitioner's application does not merit consideration and question of parity cannot be invoked in such basis.

8. Taking into account that the petitioner is in custody since 15.06.2021 and release of the co-accused by the order of this Court referred to above, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin of the matter.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi