

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6834 of 2022

***Laxmikanta Gouda @ Tutu @
Kalia***

Petitioner

Mr. S.D. Das, Sr. Advocate

-versus-

State of Odisha

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

**ORDER
14.10.2022**

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard Mr. S.D. Das, learned Senior Counsel along with Mr. B.R. Das for the petitioner and Mr. K.K. Gaya, learned Additional Standing Counsel for the State.
3. The petitioner is an accused in connection with G.R. Case No.54 of 2020(N), pending in the Court of learned 1st Additional District & Sessions Judge-cum-Special Judge, Berhampur, Ganjam, arising out of Pattapur P.S. Case No.316 of 2020, for commission of offences under Section 20(b)(ii)C of the NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned 1st Additional Sessions Judge-cum-Special Judge, Berhampur, Ganjam, by order dated 12.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned Senior Counsel for the petitioner that the petitioner is in custody since 26.12.2020 and as charge-sheet has already been filed on 28.02.2021 and trial has not commenced, his further continuance in custody is unwarranted.

6. It is also submitted that from the manner of accusation, it cannot be said that the petitioner has conscious exclusive possession of the contraband, since it is the case of the prosecution it is stated that the petitioner was standing near two gunny bags and seeing the police, he ran from the spot and he was apprehended later in the jungle.

7. It is submitted with vehemence by the learned Senior Counsel for the petitioner that the petitioner has been implicated in the case because of his criminal proclivity.

8. Learned counsel for the State opposes the prayer for bail inter alia on the ground of Bar contained under Section 37 of NDPS Act and criminal antecedent of the petitioner.

9. Taking into account the manner of accusation in the case at hand and that though the petitioner is in custody since 2020, trial has not commenced, this Court directs the petitioner to be released on bail, keeping in view the dictum of the Apex Court in the in case of *Hussainara Khatoon & Others Vrs. State of Bihar*, reported in *(1980) 1 SCC 81*,. The learned Court in seisin over the matter shall fix the terms so as to ensure the presence of the petitioner on each date of trial.

10. Considering the criminal antecedent of the petitioner, additionally it is directed that the petitioner shall appear before the jurisdictional police station once every week till conclusion of trial and one of the sureties shall be his immediate member of the family.

11. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge