

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6840 of 2022

Sanjib Kumar Panda @ Bubula

Petitioner

Mr. A. Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

23.09.2022

Order No.

02.

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 Excise Boudh P.R. No.4 of 2022-23 corresponding to 2(a) CC Case No.10 of 2022, pending in the Court of learned District Judge cum Special Judge, Boudh, 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 District Judge cum Special Judge, Boudh, by order dated 19.05.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that the petitioner is a victim of circumstances inasmuch as he was a driver of the vehicle and innocently he gave lift to one Tulu Pradhan without realizing that he is carrying the contraband of Ganja of more than the commercial quantity.

6. It is stated that taking into account the circumstances under which the contraband was seized from the vehicle of the petitioner, it cannot be said that the petitioner was in conscious exclusive possession of the same.

7. It is submitted that since charge-sheet has already been filed further continuance of the petitioner in custody is unwarranted. It is also further submitted that since the petitioner is a local person, there is no chance of his fleeing justice and hence the bail may be favorably considered.

8. Learned Counsel for the State opposes the prayer for bail inter alia on the ground that the plea of innocence as stated is far fetched. As the contraband is beyond the commercial quantity, no lenience cannot be shown to the petitioner in view of the Bar contained under Section 37 of the NDPS Act.

9. Taking into account the manner in which the petitioner has been implicated and that he is a local person, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.

10. Since it is submitted with vehemence that the petitioner is the first offender, while releasing the petitioner on bail, the learned Court below shall verify the criminal antecedent of the petitioner. If it comes to the fore that the petitioner has any criminal antecedent, this order shall stand recalled without any further reference to this Court.

11. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha