

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No. 5910 of 2021**

***Ganesh Khara and another*** .... ***Petitioners***

Mr. M. Mishra, Advocate

*-versus-*

***State of Odisha*** .... ***Opposite Party***

Mr. S.S. Pradhan, AGA

**CORAM: JUSTICE V. NARASINGH**

**ORDER**  
**05.07.2022**

**Order No.**

- 06.**
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 Special G.R. Case No.48 of 2021, on the files of learned Sessions Judge-Special Judge, Malkangiri, arising out of Chitrakonda P.S. Case No.46 of 2021, under Sections 20(b)(II)(C) of the NDPS Act and is in custody since 19.06.2021
  4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the Sessions Judge-Special Judge, Malkangiri, by order dated 21.06.2021 in the aforementioned case, the present BLAPL has been filed.
  5. It is submitted by the learned senior counsel on the basis of the recitals in the FIR that even accepting the case of the prosecution at its face value no conscious conclusive possession can be attributed to the petitioner inasmuch as it is the case of prosecution that the

petitioners ran away from the spot and have been implicated on the basis of the statement of neighbor which according to the senior counsel recorded on 05.08.2021 (Disputed by the prosecution that the same was recorded on 08.05.2021).

6. Taking into account the nature of allegations and the period of custody since 19.06.2021 and the manner of implication. No instructions have been submitted by the learned counsel for the State after relating to CDR of the petitioners in terms of the direction of this Court dated 22.06.2022 and on a conspectus of materials on record it cannot be said that the petitioners are in exclusive conscious possession of the contraband and taking into account the period of custody and non-commencement of the trial, this Court directs the petitioners to be released on bail on such terms to be fixed by the Court in seisin of the matter.

7. In addition, it is directed that the petitioners shall appear before the jurisdictional Police Station once in every ten days till the conclusion of trial. First date of such appearance be fixed by the learned Court in seisin over the matter.

8. Violation of condition of such appearance shall entail cancellation of bail by the learned Court in seisin over the matter after following the due process of law without any further reference of this Court.

9. Accordingly, the BLAPL stands disposed of.

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

**(V. NARASINGH)**  
**Judge**

*Santoshi*