

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6916 of 2022

Santosh Dash

....

Petitioner

Mr. J.K. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
22.11.2022

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 2(a)CC Case No.51 of 2022 (N) pending on the file of learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur, arising out of P.R No.228 of 2022-23 for commission of offence 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 Special Judge, Berhampur by order dated 21.06.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the Petitioner that Petitioner is in custody since 07.06.2022 and the final P.R. has been submitted on 20.08.2022. It is further submitted by the learned

counsel for the Petitioner that the co-accused Sailendri Padhi has been released on bail by order dated 20.10.2022 in BLAPL No.6658 of 2022. Hence, on the ground of parity, the Petitioner seeks release on bail.

6. It is submitted by the learned counsel for the Petitioner that Petitioner was one of the passengers in Auto from which the contraband was seized. It is further submitted that the manner in which the seizure has been effected, conscious exclusive possession cannot be attributed to the Petitioner so as to attract the bar contained in Section 37 of the N.D.P.S Act.

7. Learned counsel for the State opposes the prayer for bail, inter alia, on the ground of bar envisaged under Section 37 of the N.D.P.S Act and submits that the Petitioner is not similarly circumstanced since consideration which weighed with the court in the case of the co-accused was different as she was a lady.

8. On a conspectus of materials on record and taking into account release of the co-accused, 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. Additionally, it is directed that the Petitioner shall not leave the jurisdiction of the Court in seisin without prior permission of the Court.

10. The BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS