

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6931 of 2022

Subash Raika

....

Petitioner

Mr. R. Rath, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
28.11.2022

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 G.R. Case No.01 of 2022 pending on the file of learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur, arising out of Digapahandi P.S. Case No.02 of 2022 for commission of offence under Section 20(b)(ii)(C)/25/29 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 06.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted that the basis of implication of the Petitioner is on account of co-accused statement, the driver who has been

apprehended at the spot on account of accident of the vehicle while carrying the contraband.

6. On instruction, learned counsel for the Petitioner submits that in fact the ownership of the vehicle has already been transferred to Hemanta Raita prior to the date of occurrence yet, in the charge sheet, it is indicated that the vehicle belongs to the Petitioner. Hence, it is stated that further continuance of the Petitioner in custody is not warranted.

7. Learned counsel for the State opposes the prayer for bail, inter alia, on the ground of bar contained in Section 37 of the N.D.P.S Act and also states that since there is material on record that at the relevant time the vehicle belonged to the Petitioner, he ought not to be released on bail.

8. Considering the manner of implication and taking into account the law laid down by the apex Court in the case of **Tofan Singh vrs. State of Tamil Nadu**, reported in **(2020) 80 OCR (SC) 641**, 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. The BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS