

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7091 of 2022

Dainu Harijan

....

Petitioner

Mr. A. Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
28.11.2022

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 T.R Case No.12 of 2022 pending on the file of learned Sessions Judge-cum-Special Judge, Nabarangpur, arising out of Kosagumuda P.S. Case No.43 of 2022 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 Sessions Judge-cum-Special Judge, Nabarangpur by order dated 29.06.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted that there are no materials on record to suggest conclusively that the Petitioner had conscious exclusive possession of the contraband ganja to the tune of 32.130 Kgs.

Hence, as the Petitioner is in custody since 31.03.2022 and the charge sheet has been filed on 04.07.2022, he may be released on bail. The charge sheet filed in Court be kept on record.

6. Learned counsel for the State opposes the prayer for bail, inter alia, on the ground that prima facie the bar contained in Section 37 of the N.D.P.S Act comes into play and there are materials on record to show that on being detained the Petitioner tried to run away and later was apprehended.

7. Considering the manner in which the Petitioner was apprehended, taking into account the filing of the charge sheet and keeping in view the age of the Petitioner, 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.

8. While releasing the bail, learned Court in seisin 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.

9. The BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS