

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7258 of 2022

Kuna Behera

....

Petitioner

Mr. S.K. Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakara Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
30.09.2022

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 connection with 2(a) C.C. Case No.11 of 2022(N), pending in the Court of learned 3rd Additional District & Sessions Judge, Berhampur arising out of P.R. Case No.582 of 2021-22, for alleged commission of 20(b)(ii)(C) of the NDPS Act and is in custody since 17.03.2022.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned 3rd Additional District & Sessions Judge, Berhampur by order dated 07.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that in the meanwhile final P.R. has already been submitted on 07.04.2022 (which is taken on record), since the petitioner is in

custody since 17.03.2022, further continuance of the petitioner in custody is not warranted.

6. It is submitted by the learned counsel for the petitioner relying on the statements of witnesses on the record the manner of seizure conscious exclusive possession cannot be readily attributed to the petitioner and it is submitted that since petitioner is the first offender, he may be released on bail.

7. Learned counsel for the State opposes the prayer for bail relying on the bar contended under Section 37 of the NDPS Act.

8. Considering the manner in which the seizure has taken place and the submission of the learned counsel that he is first offender, 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. While enlarging the petitioner on bail the learned court below shall verify assertion regarding his criminal proclivity. If it comes to the fore that the petitioner has any criminal antecedent this order shall stands recalled.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi