

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7402 of 2022

Muna Gouda

....

Petitioner

Mr. Ashok Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
01.12.2022

Order No.

03.

1. Heard learned counsel for the Petitioner and learned counsel for the State.
2. The Petitioner is an accused in 2(a) CC No.51 of 2022 (N) pending on the file of learned Sessions Judge-cum-Special Judge, Ganjam, arising out of P.R. Case No.228 of 2022-23, for commission of offence under Section 20(b)(ii)(c) of the N.D.P.S Act.
3. 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.
4. It is submitted by the learned counsel 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 that the co-accused Sailendri Padhi and Santosh Dash have been released on bail by order dated

20.10.2022 and 22.11.2022 in BLAPL Nos.6658 and 6916 of 2022 respectively. Hence, on the ground of parity, the Petitioner seeks release on bail.

5. It is submitted by the learned counsel for the Petitioner that Petitioner was the driver of the 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.

6. 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.

7. 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.

8. Additionally, it is directed that the Petitioner shall not leave the jurisdiction of the Court in seisin without prior permission of the Court.

9. The BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS