

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No. 7529 of 2022**

***Priyabrata Bhoi***

....

***Petitioner***

Mr. S. Dwibedi, Advocate

*-versus-*

***State of Odisha***

....

***Opposite Party***

Mr. Karunakar Gaya, ASC

**CORAM: JUSTICE V. NARASINGH**

**ORDER**

**23.11.2022**

**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.16 of 2022, pending in the file of learned Special Judge, Phulbani, arising out of P.R. Case No.32 of 2022-23 of OIC of Excise, District Mobile, Kandhamal, for commission of alleged offences under Sections 20(b)(ii)(C) of NDPS Act and is in custody since 06.07.2022.
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, Phulbani by order dated 11.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that the petitioner is in custody since 06.07.2022 and as final P.R. has been submitted on 14.11.2022, copy of which is taken on record. Hence, further continuance in custody is not warranted.
6. Learned counsel for the State opposes the prayer for bail in view of the bar contained under Section 37 of the NDPS Act.

7. It is submitted by the learned counsel for the petitioner that the petitioner is the driver in the vehicle from which the contraband (ganja) was seized and it is stated that he had no clue regarding carrying of such contraband.

8. It is further submitted that from the manner of seizure wrong weighment cannot be ruled out so as to attract the bar under Section 37 of the NDPS Act.

9. Learned counsel for the State per contra submits that the defence plea advanced by the learned counsel for the petitioner does not stand to reason.

10. Taking into account the filing of the final P.R. and contraband (ganja) seized being 21 kgs and the petitioner being the first offender, as stated, 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.

11. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)  
*Judge*