

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

**BLAPL No. 7537 of 2022**

***Bajjing Mohan @ Chandu*** ....

***Petitioner***

Mr. M. Padhy, Advocate

*-versus-*

***State of Odisha*** ....

***Opposite Party***

Mr. K.K. Gaya, ASC

**CORAM: JUSTICE V. NARASINGH**

**ORDER**

**01.12.2022**

**Order No.**

**02.**

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner is an accused in T.R. Case No.87 of 2021, pending in the file of the learned Additional Sessions Judge-cum-Special Judge, Koraput, arising out of Padwa P.S. Case No.78 of 2021, for commission of alleged offences under Section 20(b)(ii)(C) of NDPS Act.

3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special Judge, Koraput, by order dated 22.07.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted by the learned counsel that the petitioner is in custody since 21.10.2021 and charge-sheet has been filed on 26.04.2022.

5. It is submitted that the petitioner was a passenger in the auto rickshaw from which the contraband to the tune of 49Kgs 300gms was recovered. It is stated that on being apprehended, the driver escaped and the petitioner has become a victim of circumstances.

6. Learned counsel for the State opposes the prayer for bail inter alia on the ground of bar contained under Section 37 of NDPS Act.

7. Learned counsel for the petitioner on instruction submits that trial has not commenced and till date no witness has been examined.

8. Considering that the petitioner is in custody for more than a year and non commencement of trial and that he is the first offender as stated 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.

9. Since the petitioner does not ordinarily reside within the jurisdiction of the Court in seisin, while releasing him, the learned Court is called upon to fix suitable terms.

10. While releasing the petitioner, it shall be verified if the petitioner has any criminal antecedent. If the petitioner has any criminal antecedent of similar nature, this order shall stand recalled.

11. It shall be further ascertained if as on the date (01.12.2022), no witness has been examined as stated. And in the event such submission is found to be de hors the record, this order need not be given effect to.

12. Accordingly, the BLAPL stands disposed of.
13. Urgent certified copy of this order be granted as per the rules.

**(V. NARASINGH)**  
**Judge**

*Ayesha*

