

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7573 of 2022

Chandrika Singh

....

Petitioner

Mr. R. Biswal, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

07.12.2022

Order No.

03.

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

2. The petitioner is an accused in Spl 2(a)CC No.09 of 2022 pending before the Court of the learned 1st Additional Sessions Judge, Rourkela, 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 Special Judge, Rourkela, by order dated 18.07.2022 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 07.06.2022 and on instruction the learned counsel for the petitioner submits that charge-sheet has been submitted on 12.09.2022 and he is accused of carrying contraband to the tune 22 Kgs of Ganja.

5. It is submitted by the learned counsel for the petitioner that the alleged seizure was from a public place and as such conscious exclusive possession cannot be attributed to the petitioner so as to

attract the rigors of Section 37 of NDPS Act and hence seeks release on bail also on the ground that the petitioner is aged about 65 years and he is suffering several age related ailments.

6. Learned counsel for the State relying on the bar contained under Section 37 of the NDPS Act, refutes such submission and states that it is not open for the Court at this stage to consider the plea of innocence as advanced.

7. On a conspectus materials on record, keeping in view the age of the petitioner and the seizure as affected, 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. To allay the legitimate concern as expressed by the learned Public Prosecutor regarding presence of the accused during trial since the petitioner is not residing within the State, it is directed that learned Court in seisin over the matter while fixing the condition, shall take the same into account and additionally, it is directed that one of the family members shall execute a personal bond.

9. It is submitted that the petitioner does not have any criminal antecedents of similar nature and such assertion be verified by the learned Court in seisin over the matter and if it comes to the fore that the petitioner has such criminal antecedent, this order shall stand recalled.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge