

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7866 of 2022

Sanjay Pal

....

Petitioner

Mr. P. Panigrahi, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
02.09.2022

Order No.

01.

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 T.R. Case No.57 of 2022, pending in the file of learned Additional Sessions Judge cum Special Judge, Koraput, arising out of Jeypore/Koraput GR P.S. Case No.11 of 2022, offence under Sections 20(b)(ii)(C) of the NDPS Act and is in custody since 25.05.2022.
4. 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 03.04.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner with vehemence that the seizure of only 18 kgs of contraband (Ganja) can be attributed to the petitioner relying on the seizure list.

Hence it is submitted that since the contraband is below commercial quantity the limitations as prescribed under Section 37 of the NDPS Act does not come into play and the petitioner is entitled to be released on bail and more so when charge sheet has already been filed on 30.07.2022 and is in custody since 25.05.2022.

6. Per contra the learned Additional Standing Counsel on instruction submits that the contraband seized is to the tune of 29 kgs which is more than the commercial quantity prescribed and dissection of quantity as being made by the learned counsel cannot be relied upon at this stage. It is also further submitted by the learned State counsel since the seizure list contains the signature of both the petitioner as well as the co-accused, hence, it is not open to the petitioner to state that only 18kgs of the contraband, less than commercial quantity, has been seized from his possession.

7. It is also stated by the learned counsel for the State that since the petitioner is from outside State, the same should weigh with the Court while considering the bail since it would be difficult to ensure his presence during trial.

8. Taking into account the quantity of contraband seized and the manner of such seizure and that charge sheet has already been filed in the meanwhile, 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. Additionally it is directed that one of the sureties shall be immediate family member of the petitioner and other surety shall be a local person.

10. It is further directed that the petitioner shall appear before the jurisdictional police station of the Court in seisin over the matter

once every month till the conclusion of trial. It shall be open to the learned Court in seisin over the matter to impose further conditions so as to ensure the presence of the petitioner on each date of trial.

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

(V. NARASINGH)
Judge

Santoshi

