

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8061 of 2022

Dheeraj Kumar Sahu

....

Petitioner

Mr. A.R. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

09.12.2022

Order No.

02.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in G.R. Case No.12 of 2022(N), pending before the learned Additional Sessions Judge-cum-Special Judge, Aska, arising out of Aska P.S. Case No.412 of 2022, 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, Aska, by order dated 25.07.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted that the petitioner is in custody since 20.07.2022 for being in possession of the contraband to the tune of 21Kgs 800gms (Ganja) and as charge-sheet is filed on 30.09.2022, further continuance of the petitioner in custody is unwarranted.
5. Learned counsel for the petitioner on the basis of materials on record submits that the seizure is from a public place. Hence,

conscious exclusive possession as envisaged under Section 37 of the NDPS Act cannot be attributed to the petitioner.

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 and also that the plea as advanced by the learned counsel for the petitioner cannot be considered at this stage and it is also brought to the notice of the Court that since the petitioner is not a resident of the State, it would be difficult to secure his attendance during trial.

7. Considering the manner of seizure and filing of charge-sheet, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

8. Additionally it is directed that one of the immediate family members shall execute a personal bond.

9. Learned counsel for the petitioner is not in a position to apprise this Court regarding the criminal antecedent of the petitioner. If it comes to the fore that the petitioner **has any criminal antecedent**, since he does not reside within the territorial jurisdiction of the Court in question, 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

Ayesha