

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8072 of 2022

Premjeet Das & Another ***Petitioners***

Mr. D. Mishra, 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 petitioners and learned counsel for the State.

2. The petitioners are accused in 2(a) CC Case No.8 of 2022(N), pending in the learned Additional Sessions Judge-cum-Special Judge, Khallikote, arising out of Excise EI & EB Unit-II(SD), Berhampur P.R. No.467 of 2022-23, for commission of alleged offences under Section 20(b)(ii)(B) of NDPS Act.

3. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special Judge, Khallikote, by order dated 06.08.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted that the petitioners are in custody since 01.08.2022 for being in possession of the contraband to the tune of 22Kgs (Ganja) and it is stated that as charge-sheet has been filed on 05.08.2022, further continuance of the petitioners in custody is unwarranted.

5. Learned counsel for the petitioners 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 petitioners.

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 petitioners cannot be considered at this stage and it is also brought to the notice of the Court that since the petitioners are not residents of the State, it would be difficult to secure their attendance during trial.

7. Considering the manner of seizure and filing of charge-sheet, this Court directs the petitioners to be released on bail on such terms to be fixed by the learned Court in seisin, keeping in view that the petitioners do not reside within its jurisdiction.

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

9. Learned counsel for the petitioners is not in a position to apprise this Court regarding the criminal antecedent of the petitioners. If it comes to the fore that the petitioners have **any criminal antecedent**, since they do 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