

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8159 of 2022

Mojesh Khara

....

Petitioner

Mr. A. Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
01.11.2022

Order No.

03.

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 connection with T.R. Case No.58 of 2022, pending in the Court of the learned Additional Sessions Judge-cum-Special Judge, Koraput, arising out of Kakiriguma P.S. Case No.53 of 2022, for alleged commission of offences under Section 20(b)(ii)(C) of the NDPS Act.
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 19.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. Copy of the final form filed today, is taken on record.
6. Learned counsel for the petitioner submitted that the petitioner is in custody since 24.05.2022 and since charge-sheet has

already been filed on 30.06.2022, further continuance of the petitioner in custody is unwarranted.

6. It is submitted that on seeing the police personnel, the petitioner started running, thereafter he was nabbed and at his instance contraband to the tune of 31Kg 680gms was recovered.

7. It is stated with vehemence that the manner in which the seizure has been effected, conscious exclusive possession cannot be attributed to the petitioner.

8. It is submitted that merely because the petitioner started running on seeing the police personnel, it cannot be presumed that the contraband belongs to the petitioner.

9. Learned counsel for the State opposes the prayer for bail on the ground of the bar as enacted under Section 37 of the NDPS Act.

10. Taking into account the nature of implication and filing of charge-sheet, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.

11. While releasing the petitioner on bail the learned Court below shall verify criminal antecedent of the petitioner. If it comes to the fore that the petitioner has any criminal antecedent, this order shall stand recalled without any further reference to this Court.

12. Accordingly, the BLAPL stands disposed of.

13. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Ayesha