

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No. 8207 of 2022**

***Chakradhar Khara***

....

***Petitioner***

Mr. N.K. Sahu, Advocate

*-versus-*

***State of Odisha***

....

***Opposite Party***

Mr. P.K. Maharaj, ASC

**CORAM: JUSTICE V. NARASINGH**

**ORDER**

**16.11.2022**

**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 T.R. Case No.46 of 2022, pending in the file of learned Additional Sessions Judge-cum-Special Judge, Koraput, arising out of P.R. Case No.10 of 2022 of OIC of Excise, Nandapur Excise Station, for commission of alleged offences under Sections 20(b)(ii)(c) of NDPS Act and is in custody since 25.04.2022.
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 27.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that the petitioner is in custody since 26.04.2022 and as charge sheet has already been filed on 20.10.2022, further continuance of the petitioner in custody is not warranted.

6. It is submitted by the learned counsel for the petitioner that from the manner of seizure it cannot be said that the petitioner had conscious exclusive possession cannot be attributable to the petitioner so as to attract the bar under Section 37 of NDPS Act.

7. Learned counsel for the State opposes the prayer for bail inter alia on the ground that the defence plea cannot be taken into account at this stage, since the contraband is admittedly more than the commercial quantity.

8. On a conspectus of materials on record and keeping in view the manner in which the seizure has made, 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. While enlarging the petitioner on bail the learned court below shall verify assertion regarding his criminal proclivity. If it comes to the fore that the petitioner has any 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 the rules.

**(V. NARASINGH)**  
**Judge**