

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

**BLAPL No. 8273 of 2022**

***SK. Mustakim***

....

***Petitioner***

Mr. B. C. Ray, Advocate

*-versus-*

***State of Odisha***

....

***Opposite Party***

Mr. Karunakar Gaya, ASC

**CORAM: JUSTICE V. NARASINGH**

**ORDER**  
**20.09.2022**

**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 C.T. Case No.22 of 2022, pending in the file of learned District & Sessions Judge-cum-Special Judge, Kandhamal, Phulbani arising out of Phiringia P.S. Case No.55 of 2022, offence under Sections 20(b)(ii)(c)/25/29 of the NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge, Phulbani by order dated 22.08.2022 in the aforementioned case, the present BLAPL has been filed.
5. This is the second journey of the petitioner to this Court.
6. It is submitted by the learned counsel for the petitioner that he is in custody since 10.04.2022 inter alia on the accusation of

being driver of Swift Dezire Car bearing registration No.OD-02-AN-4096 carrying contraband to the tune of 71 Kgs 200 Grams. It is stated placing reliance on the charge sheet which has been filed on 06.07.2022 that the petitioner was driving the vehicle to earn his livelihood and he had no knowledge that the contraband was being carried out in the vehicle. Hence it is stated with vehemence that the conscious exclusive possession cannot be attributed to the petitioner.

7. Learned counsel for the State opposes the prayer inter alia relying on the bar contained under Section 37 of the NDPS Act.

8. Taking into account the manner of accusation and that charge sheet has already been filed and the petitioner being a local, 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 the petitioner shall appear before the jurisdictional police station of the Court in seisin over the matter once in every 15 days till the conclusion of trial.

10. Accordingly, the BLAPL stands disposed of.

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

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

*Santoshi*