

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8701 of 2022

Purna Chandra Mallick

....

Petitioner

Mr. S.K. Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

19.12.2022

Order No.

04.

1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in G.R. Case No.57 of 2022 (N) pending on the file of learned Sessions Judge-cum-Special Judge, Berhampur, arising out of Jarada P.S. Case No.211 of 2022, for commission of the offence alleged under Section 20(b)(ii)C of the N.D.P.S Act.

3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge, Berhampur by order dated 14.07.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted by the learned counsel that the allegation against the Petitioner is that he was driving the Ford Car and was escorting the contraband being carried in an Auto Rickshaw. Since the Petitioner is in custody since 30.06.2022 and the charge sheet

has been filed on 05.12.2022, his further continuance in custody is not warranted.

5. Learned counsel for the State opposes the prayer, inter alia, relying on the bar contained in Section 37 of the N.D.P.S Act.

6. Considering the nature of allegation and taking into account the submission of the learned counsel for the Petitioner that conscious exclusive possession cannot be attributed to him, 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.

7. Learned counsel for the Petitioner submits that he is not in a position to apprise this Court about the criminal antecedent of the Petitioner.

8. While releasing the Petitioner on bail, learned Court below shall verify assertion regarding **criminal antecedent of similar nature**. If the Petitioner has any such criminal antecedent, this order shall stand recalled.

9. The BLAPL thus stands disposed of.

10. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge

PKS