

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8723 of 2022

Manas Kumar Nag @ Malu

Petitioner

Mr. S. Panda, Advocate

-versus-

State of Orissa

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

07.12.2022

Order No.

03.

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

2. The petitioner is an accused in connection with Spl. NDPS Case No.25 of 2022, pending in the Court of learned Additional District & Sessions Judge-cum-Special Judge, Kantamal, arising out of Kantamal P.S. Case No.92 of 2022, for alleged commission of offences under Section 20(b)(ii)(C) of NDPS Act.

3. 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, Kantamal, by order dated 23.07.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted by the learned counsel that the petitioner is in custody since 19.07.2022 and since charge-sheet has been filed on 01.10.2022, further continuance of the petitioner in custody is unwarranted.

5. Learned counsel for the State opposes the prayer for bail relying on the bar contained under Section 37 of the NDPS Act.

6. Learned counsel for the petitioner submits that the petitioner was a driver, who was driving the vehicle to earn his livelihood and he had no inkling that the contraband was being carried in the boot of the vehicle. Hence, it is stated with vehemence that the petitioner, who is a first offender, is a victim of circumstance.

7. Learned counsel for the petitioner further refers to the final form, which is taken on record that the vehicle stands in the name of one Samir Pattanaik.

8. Learned counsel for the State per contra submits that the plea of innocence as advanced is negated by the categorical finding during the investigation that the complicity of the owner was not established, which has been specifically mentioned in the charge-sheet.

9. Taking into account that the petitioner was the driver and notwithstanding the observation regarding the non complicity of the owner of the vehicle and on a conspectus of material on record, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.

10. While releasing the petitioner on bail, the learned Court in seisin over the matter shall verify assertion regarding criminal antecedents of similar nature. If it comes to the fore that the petitioner has such criminal antecedent, this order shall stand recalled.

11. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha