

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

**BLAPL No. 8832 of 2022**

***Ashish Kumar Nayak***

....

***Petitioner***

Mr. S.K. Nayak, Advocate

*-versus-*

***State of Odisha***

....

***Opposite Party***

Mr. K.K. Gaya, ASC

**CORAM: JUSTICE V. NARASINGH**

**ORDER**

**23.12.2022**

**Order No.**

**02.**

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in connection with 2(a) CC Case No.69 of 2022(N), pending before the Court of learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur, arising out of P.R. No.351 of 2022-23, for alleged commission of offences 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 19.07.2022 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 06.07.2022 and charge-sheet has been filed on 10.12.2022 on the accusation of possession of contraband (Ganja) to the tune of 28Kgs.

5. It is submitted that mandatory provisions have not been followed in effecting the seizure.

6. On instruction, learned counsel for the petitioner submits that as the petitioner is the first offender, his bail application may be considered, keeping in view his age (24 years).

7. Learned counsel for the State opposes the prayer for bail relying on the form C-5 that the allegation of violation of the mandatory provision is not borne out and even otherwise prima facie there is no violation and even if such violation is there, the same ought to be considered at the time of trial.

8. Considering that the petitioner is a young man and he is the first offender and bleak chance of early trial, this Court directs the petitioner to be released on bail with the fervent hope that he shall not indulge himself in any other offence during the currency of bail. Learned Court in seisin to fix the terms.

9. While releasing the petitioner on bail, the learned Court in seisin is called upon to verify assertion regarding criminal antecedent. 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 rule.

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

*Ayesha*