

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8866 of 2022

Jagannath Pambia

....

Petitioner

Mr. B.P. Pradhan, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, 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 T.R. Case No.62 of 2022, pending in the Court of the learned Additional Sessions Judge-cum-Special Judge, Koraput, arising out of Kakiriguma P.S. Case No.59 of 2022, for commission of alleged offences under Sections 20(b)(ii)(C) of the 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, Koraput by order dated 16.08.2022 in the aforementioned case, the present BLAPL has been filed.
4. Learned counsel for the petitioner on instruction submits that charge sheet has already been filed on 28.11.2022 on the accusation of the petitioner possessing contraband to the tune of 21 kg 390 gms (ganja) and he is in custody since 04.06.2022.

5. It is submitted that the seizure from a public place and the manner in which the seizure has been made wrong weightment also cannot be ruled out hence prima facie the bar under Section 37 of the NDPS Act is not attracted.

6. Learned counsel for the State opposes the prayer for bail relying on Section 37 of the NDPS Act and submits that the defence as advanced is figment of petitioner's imagination and cannot be taken into account at the stage of consideration of bail.

7. Considering that the petitioner is the first offender as stated, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

8. While releasing the petitioner on bail, learned Court below shall verify assertion regarding the **criminal antecedent of similar nature**. Further the learned Court below is requested to verify as to whether the charge sheet has been submitted on 28.11.2022, as stated at the bar. If it comes to fore that the petitioner has any such criminal antecedent and the charge sheet has not been submitted on the stated date, this order shall stand recalled.

9. The bail application accordingly stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi