

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9224 of 2022

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Petitioner

Mr. H.K. Tripathy, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

13.12.2022

Order No.

04.

1. Heard learned counsel for the Petitioner and learned counsel for the State.
2. The Petitioner is accused in connection with T.R Case No.75 of 2022 pending on the file of learned Addl. District & Sessions Judge-cum-Special Judge, Gunupur, arising out of Muniguda P.S. Case No.131 of 2022, for commission of the offence alleged under Sections 20(b)(ii)(c)/29 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 Addl. Sessions Judge-cum-Special Judge, Gunupur I/c, by order dated 04.07.2022 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 14.06.2022 and as charge sheet is filed on 09.12.2022, his further continuance in custody is not warranted.

5. Learned counsel for the Petitioner on the basis of the statement of the witnesses, which are on record, submits that the seizure of contraband which is less than the commercial quantity has been clubbed together so as to attract the bar contained in Section 37 of the N.D.P.S Act.

6. He relies on the statement of the witness Balaram Mishra to substantiate his submission that the contraband (ganja) to the tune of 8 Kg. 360 grams was seized from the present Petitioner and it has been stated that total contraband seized is to the tune of 26.320 Kg.

7. Learned counsel for the State opposes the prayer for bail relying on Section 37 of the N.D.P.S Act. It is stated that dissection of quantity at this stage is not permissible in law for consideration of bail in view of the bar contained in Section 37 of the N.D.P.S Act.

8. Taking into account the quantity of the contraband seized from the present Petitioner and the total contraband seized being 26.320 Kg. from three persons and keeping in view the statement of the independent witness, noted hereinabove, 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. To allay the legitimate concern of the learned counsel for the State since the Petitioner is not the resident of Orissa, it would be difficult to secure his presence during trial, additionally it is directed that one of the family members of the Petitioner shall execute the P.R bond.

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

11. 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.

12. The BLAPL thus stands disposed of.

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

PKS

