

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 7915 OF 2020

Gangadhar Khemudu

..... ***Petitioner***
Mr.Asit Kumar Jena, Advocate

-versus-

State of Odisha

..... ***Opposite Party***
Ms.S.Mishra, ASC

CORAM:
JUSTICE V. NARASINGH

ORDER
02.05.2022

Order No.
08.

1. This matter is taken up through Hybrid Mode.
2. The Petitioner is an accused in connection with T.R. Case No.124 of 2020 arising out of Chitrakonda P.S. Case No. 106 of 2020 on the file of learned Sessions Judge-cum Special Judge, Malkangiri, registered for the alleged commission of offence 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 Sessions Judge-cum Special Judge, Malkangiri, by order dated 8.10.2020, the present BLAPL has been filed
4. Learned counsel for the petitioner submits that in the trial all the four witnesses examined on behalf of the prosecution relating to seizure have not supported the prosecution.
5. Submitting that the petitioner is in custody since 7.10.2020, he prays the petitioner to be released on bail.

6. Learned counsel for the State submits that there are other witnesses to testify regarding seizure of the contraband beyond the permissible limit and in view of the bar under Section 37 of the NDPS Act, is not open to the Court to take into account the deposition of the witnesses examined so far and on which reliance placed by the learned counsel for the petitioner.

7. Considering the nature of evidence against the petitioner and period of custody and being cognizant of the fact that the prosecution witnesses relating to seizure have resiled from their statements, 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 so as to ensure his presence in each date of trial.

8. Accordingly, the BLAPL stands disposed of.

9. Issue urgent certified copy of this order as per Rules.

(V.Narasingh)
Judge

Dhal