

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9504 of 2022

Suddam Hussain Fajalu
Rahman Maula @ Suddam and
another

Petitioners

Mr. P.K. Mishra, Advocate

-versus-

State of Odisha

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
22.11.2022

Order No.

02.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioners and learned counsel for the State.
3. The petitioners are accused in T.R. Case No.60 of 2022, pending in the file of learned Additional Sessions Judge-cum-Special Judge, Gunupur, arising out of Padmapur P.S. Case No.50 of 2022, for commission of alleged offences under Sections 20(b)(ii)(C) of NDPS Act and is in custody since 23.04.2022.
4. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special by order dated 09.09.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioners that the petitioners are in custody since 23.04.2022 and as charge sheet has already been filed on 15.10.2022 and the manner in which the contraband has been seized, further continuance of the petitioners in custody is not warranted.

6. Learned counsel for the State opposes the prayer for bail, inter alia, referring to Section 37 of the NDPS Act and also submits that since the petitioners are outsiders and once released, it would be difficult to secure their attendance in the trial.

7. This Court perused the materials on record. There is no plausible explanation as to why the present petitioners who are admittedly from Mumbai were standing near the contraband at the place of occurrence. This Court is not persuaded by the submission of the learned counsel for the petitioners that it is only but natural that on seeing the police personnel one starts to run and that cannot be treated as an incriminating circumstance against the petitioners.

8. Considering the contraband being more than the commercial quantity, this Court is **not inclined** to entertain this bail application in view of presumption under Section 37 of the NDPS Act.

9. Accordingly, the BLAPL stands rejected.

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

(V. NARASINGH)
Judge