

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9524 of 2022

Sourav Maity

....

Petitioner

Mr. B.K. Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

25.11.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.
3. The petitioner is an accused in connection with T.R. Case No.181 of 2022, pending in the Court of learned District & Sessions Judge, Khurda at Bhubaneswar, arising out of Bharatpur P.S. Case No.175 of 2022, for commission of offences under Section 20(b)(ii)(C) of NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge, Khurda at Bhubaneswar, by order dated 05.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel that the petitioner is in custody since 10.05.2022 and since charge-sheet has already been filed on 04.11.2022, further continuance of the petitioner in custody is unwarranted.

6. It is submitted that from the manner of the seizure, conscious exclusive possession cannot be attributed to the petitioner and wrong weightment cannot be ruled out so as to attract the bar contained under Section 37 of NDPS Act.

7. Learned counsel for the State opposes the prayer for bail relying on the bar contained under Section 37 of NDPS Act and also submits that since the petitioner does not reside within the territorial jurisdiction of the learned Court in seisin, it would not be possible to ensure his presence during the trial.

8. Considering the quantity of contraband seized (21.400Kgs Ganja) and taking into account the period of custody, this Court directs the petitioner to be released on bail. Learned Court in seisin over the matter shall fix the terms including local sureties so as to ensure the presence of the petitioner on each date of trial, since he admittedly does not reside within the territorial jurisdiction of the Court in seisin.

9. Before releasing, the criminal antecedents be verified from Nandigram police station of West Bengal. If it comes to the fore that the petitioner has any criminal antecedents, 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