

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9694 of 2022

K. Sanjaya

....

Petitioner

Mr. Anupam Rath, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

15.11.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The Petitioner is an accused in 2(a)CC No.84 of 2022 (N) pending on the file of learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur, arising out of P.R No.541 of 2022-23, for commission of offence under Section 20(b)(ii)(c) of the N.D.P.S. Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge, Berhampur by order dated 16.09.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 20.08.2022 and since charge sheet

has already been filed on 24.08.2022, his further continuance in custody is unwarranted.

6. Per contra, learned counsel for the State submits that preliminary charge sheet has been filed keeping the investigation open under Section 173(8) Cr.P.C. Hence, the Petitioner ought not to be released on bail at this stage.

7. Taking into account that the contraband (Ganja) seized is to the tune of 21 K.G, it is submitted by the learned counsel for the Petitioner that wrong weighment cannot be ruled out so as to attract the bar contained in Section 37 of the N.D.P.S Act.

8. Considering the age of the Petitioner and since he is stated to be the first offender and the contraband (ganja) seized is to the tune of 21 KG. and filing of the charge sheet, 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. Learned Court in seisin over the matter shall verify the criminal antecedent of similar nature. If it comes to the fore that the Petitioner has any such criminal antecedent, this order shall stand recalled.

10. The BLAPL thus stands disposed of.

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

(V. NARASINGH)
Judge

PKS