

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9804 of 2022

Uttam Kumar Das

....

Petitioner

Mr. J.K. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

01.12.2022

Order No.

03.

1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in Special G.R. Case No.131 of 2022 pending on the file of learned Sessions Judge-cum-Special Judge, Malkangiri, arising out of Orkel P.S. Case No.174 of 2022, for commission of offence under Section 20(b)(ii)(c)/27-A 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 Special Judge, Malkangiri by order dated 08.09.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted by the learned counsel that Petitioner is in custody since 29.08.2022 and the contraband (Ganja) seized is to the tune of 25.900 Grams and on account of ill health of the Petitioner, learned counsel seeks his release.

5. Learned counsel for the State opposes the prayer, inter alia, on the ground that since the contraband (Ganja) is more than the prescribed limit of 20 Kg., in view of the bar contained in Section 37 of the N.D.P.S Act, the Petitioner cannot be released on bail.

6. This Court perused the seizure list at page 32 which indicates the seizure is from the co-accused Sania Madi and finds force in the submission of the learned counsel for the Petitioner that he cannot be said to be in conscious possession of any contraband (Ganja).

7. There is substance in the submission of the learned counsel for the State that during currency of the investigation, this Court cannot come to certainty regarding the quantity of contraband and complicity of the Petitioner.

8. Keeping in view the submission of the learned counsel for the Petitioner regarding health condition of the Petitioner, a report was called for from the Superintendent of Sub-Jail, Malkanagiri through Registry. The same is taken on record.

9. Taking into account that prima facie there is no seizure from the Petitioner and the health condition of the Petitioner as stated by the Superintendent, Sub-Jail, Malkanagiri, 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.

10. Additionally, it is directed that the Petitioner shall appear before the Investigating Officer of the learned Court in seisin once every week till conclusion of final form. The first date and time to be fixed by the learned Court in seisin over the matter. Certification of such appearance shall be submitted to the learned Court in seisin over the matter.

11. The BLAPL stands disposed of.
12. Urgent certified copy of this order be granted as per the rules.

(V. NARASINGH)
Judge

PKS

