

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8220 of 2020

Situnu Swain

....

Petitioner

Mr. S. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

27.04.2022

Order No.

10.

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 C.T. Case No.48 of 2020, on the files of learned Special Judge-cum-Additional District & Sessions Judge, Balliguda, arising out of K.Nuagaon P.S. Case No.53 of 2020, under Sections 20(b)(ii)(c)/25/27-A/29 of the N.D.P.S Act and is in custody since 16.09.2020.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional District and Sessions Judge, Balliguda, by order dated 22.09.2020 in the aforementioned case, the present BLAPL has been filed.

5. Placing reliance on the recitals in the FIR placed that he was employed as helper to earn his livelihood and was going in the vehicle from which contraband was seized.

6. It is stated that being a helper conscious possession of the contraband cannot be attributed to him and though he is in custody since 16.09.2020, and trial has not commenced and prays for to be released on bail.

7. Per contra learned counsel for the State submits that the petitioner has been nabbed from the offending vehicle carrying contraband and there are no mitigating circumstances so as to warrant interference of this Court in view of the bar contained under Section 37 of the N.D.P.S. Act.

8. This Court had directed the interim release of the petitioner by order dated 03.02.2022 in I.A. No.181 of 2022 for a period of two weeks. It is on record that on expiry of the said period the petitioner has surrendered.

9. Taking note of the conduct of the petitioner that he did not misuse the trust reposed in him earlier and being cognizant of the fact that the trial has not commenced, in view of the law laid down by the Apex Court in the case of *Hussainara Khatoon & Ors vs. State of Bihar* reported in *1979 AIR 1369*, this Court directs 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 in the jurisdictional Police Station of the learned trial Court once every month till the conclusion of trial.

11. It is needles to state here that if it comes to fore that the petitioner has any criminal antecedent the order passed by this Court automatically stands recalled without any further reference to this Court.

12. The present BLAPL is disposed of accordingly.

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

Santoshi

