

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9902 of 2022

Trinath @ Buntty Gatan

....

Petitioner

Mr. R.L. Pattnaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
29.11.2022

Order No.

02.

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 T.R. Case No.25 of 2021 pending on the file of learned Sessions Judge-cum-Special Judge, Koraput, arising out of Machhakund P.S. Case No.18 of 2021 for commission of offence under Section 20(b)(ii)C & 29 of the NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Addl. Sessions Judge-cum-Special Judge, Koraput by order dated 28.09.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel that the basis of implication of the Petitioner is on account of co-accused statement, who was caught at the spot. He places recitals in the case dairy

which indicate that the co-accused Krushna Khillla stated that he was transporting the contraband (ganja) to the tune of 135 Kg. 900 grams at the instance of the present Petitioner. It is submitted that there is no material to connect the Petitioner with the alleged crime. Hence, his further continuance in custody is not warranted as charge sheet has already been filed citing him as an absconder.

6. Learned counsel for the State opposes the prayer for bail in view of the bar contained in Section 37 of the N.D.P.S. Act.

7. Considering the basis of implication and taking into account the law laid down by the apex Court in the case of **Tofan Singh vrs. State of Tamil Nadu**, reported in **(2020) 80 OCR (SC) 641**, 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.

8. While releasing on bail, learned Court in seisin shall verify the criminal antecedents of similar nature. If it comes to the fore that the Petitioner has such criminal antecedent, this order shall stand recalled.

9. The BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS