

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9925 of 2022

Srinibas Durua

....

Petitioner

Mr. A.K. Jena, 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 Spl. G.R. Case No.140 of 2022, pending on the file of learned Sessions Judge-cum-Special Judge, Malkangiri, arising out of Orkel P.S. Case No.183 of 2022, for commission of alleged offences under Section 20(b)(ii)(C) and 27 of the NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Malkangiri by order dated 12.09.2022 in the aforementioned case, the present BLAPL has been filed.
5. Perused the order of rejection.
6. It is submitted by the learned counsel for the petitioner that two independent seizures of 11 kg and 10.900 kgs from two

different vehicles have been clubbed together by the Investigating Agency and as such the petitioner is languishing in custody from 05.09.2022.

7. Learned counsel for the State opposes the prayer for bail relying on the bar contained in Section 37 of the NDPS Act and submits that at this stage it is not permissible to bifurcate the quantity, as claimed by the petitioner.

8. It is seen from FIR which is on record that the petitioner is the driver and owner of one YAMAHA-FZ5 motor cycle and from his possession 11 kgs of ganja was seized which is marked as Exhibit-A. Contraband (ganja) to the tune of 10 kgs 900 gms marked as Exhibit-B which was seized from Hero Honda Passion Plus Motor Cycle and the rider Mantu Datta had allegedly escaped from the spot. Hence this Court finds force in the submission of the learned counsel for the petitioner that qua the petitioner, the conscious exclusive possession can only be to the tune of 11kgs seized from his possession.

9. Considering the same and taking into account the period of custody and as investigation has progress substantially and that the petitioner is stated to be first offender, 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 jurisdictional police station once every week on such date and time to be fixed by the learned Court in seisin over the matter till submission of final form.

11. While enlarging the petitioner on bail the learned court below shall verify assertion regarding criminal antecedent of the

petitioner of similar nature. If it comes to the fore that the petitioner has any such criminal antecedent, this order shall stand recalled without any further reference to this Court.

12. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi

