

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No. 10042 of 2022**

***Mohammad Dilshad Kureshi*** .... ***Petitioner***

Mr. R.L. Pattnaik, Advocate

*-versus-*

***State of Odisha*** .... ***Opposite Party***

Mr. P.K. Maharaj, ASC

**CORAM: JUSTICE V. NARASINGH**

**ORDER**

**31.10.2022**

**Order No.**

**01.**

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 G.R. Case No.57 of 2022, pending in the file of learned Sessions Judge-cum-Special Judge, Malkangiri, in the District of Malkangiri, arising out of Chitrokonda P.S. Case No.49 of 2022, for alleged commission of offence under Sections 20(b)(ii)(C)/27-A/29 of NDPS Act and is in custody since 09.04.2022.
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, in the District of Malkangiri by order dated 18.04.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner on instructions that even if the entire materials on record are accepted

at its face value, the petitioner can be implicated for possessing contraband to the tune of 26 kg 100gms.

6. It is further submitted that since charge sheet has already been filed, further continuance of the petitioner in custody is not warranted.

7. It is not disputed at the Bar that by the date, the learned Court in seisin over the matter considered the bail application of the petitioner, charge sheet has not been filed.

8. Keeping in view the total contraband seized is to the tune of 208 Kgs 800 grams, this Court is **not inclined** to entertain this bail application at this stage, when the consideration by the learned Court in seisin was prior to the filing of charge sheet, keeping in view the legislative intent under Section 37 of the NDPS Act.

9. The bail application is disposed of giving liberty to the petitioner to move the learned Court in seisin afresh in view of the filing of the charge sheet in the meanwhile as stated and such application shall be considered on its own merits independently, considering the submission of the learned counsel that contraband seized from the petitioner is to the tune of 26 kg 100gms.

10. Accordingly, the BLAPL stands disposed of.

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

**(V. NARASINGH)**  
**Judge**