

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 8433 OF 2020

Sai Kumar Patra

..... ***Petitioner***
Mr. J.Sahoo, Adv.

-versus-

State of Odisha

..... ***Opposite Party***
Mr. K.K.Gaya, ASC

CORAM:
JUSTICE V. NARASINGH

ORDER
13.04.2022

Order No.
05.

1. This matter is taken up through Hybrid Mode.
2. This BLAPL is referred to vide order passed to-day in CRLMA No. 63 of 2022. Though this matter is not in today's list, on being mentioned by learned counsel for the Petitioner, it is taken up.
3. Heard learned counsel for the parties.
4. The Petitioner is an accused in connection with T.R. Case No.135 of 2020 arising out of Motu P.S. Case No. 72 of 2020 on the file of learned Sessions Judge-cum-Special Judge, Malkangiri, registered for the alleged commission of offence under Sections 21(b)(ii)(c) of the NDPS Act.
5. 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 vide order dated 3.11.2020, the present BLAPL has been filed.

6. Learned counsel for the petitioner submits that from the manner of seizure it cannot be said that the Petitioner was in conscious exclusive possession of the contraband. Learned counsel for the Petitioner also places reliance on the order of this Court dated 05.04.2022 passed in BLAPL No. 2908 of 2021 in respect of the co-accused Kuna Nayak and seeks bail inter alia on the ground of parity.

7. The learned counsel for the State opposes the prayer for bail.

8. Taking into account the release of the co-accused and that the Petitioner is in custody since 2.11.2020, the trial having not commenced and keeping in view 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 that the Petitioner shall be released on bail on such terms to be fixed by the learned court below in seisin over the matter.

9. Accordingly, the BLAPL stands disposed of.

10. Issue urgent certified copy of this order as per Rules.

(*V.Narasingh*)
Judge

Dhal