

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10257 of 2022

Jagannath Nayak

....

Petitioner

Mr. S.K. Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

11.11.2022

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.47 of 2022, pending in the file of learned Special Judge, Gajapati, Paralakhemundi, arising out of R. Udayagiri P.S. Case No.55 of 2022, for alleged commission of offence under Sections 20(b)(ii)C/25/29 of the NDPS Act and is in custody since 24.04.2022.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Spl. Judge, Gajapati by order dated 11.10.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that the contraband (ganja) was seized to the tune of 29 Kgs 900 gms from a motor cycle bearing registration No.OD-20-A-7760. Petitioner was the pillion rider and has no inkling that the

contraband was being carried in the said motor bike. It is submitted that he is the victim of circumstance.

6. It is further submitted that since the charge sheet has already been filed, his further continuance of the petitioner in custody is not warranted and there is chance of his fleeing from justice since he is residing within the territorial jurisdiction of the Court in seisin and as he is the first offender his case be considered liberally.

7. Learned counsel for the State relying on the order of rejection opposes the prayer for bail inter alia under Section 37 of the NDPS Act and submits that the plea of innocence as advanced cannot be considered at this stage.

8. On a conspectus of materials on record and taking into account the quantity of contraband seized and that the petitioner is in custody since 24.04.2022 and that he is the 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.

9. While enlarging the petitioner on bail the learned court below shall verify assertion regarding his criminal proclivity. If it comes to the fore that the petitioner has criminal antecedent of any nature this order shall stand recalled.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge