

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10325 of 2022

***Bharat Kushwaha and
another***

....

Petitioners

Mr. B.K. Ragada, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

**ORDER
22.12.2022**

Order No.

03.

1. Heard learned counsel for the petitioners and learned counsel for the State.
2. The petitioners are accused in T.R. Case No.57 of 2022, pending on the file of the learned Sessions Judge-cum-Special Judge, Sambalpur arising out of P.R. No.39 of 2022-23, for commission of alleged offences under Sections 20(b)(ii)(C) of the NDPS Act.
3. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Judge (Special Court), Sambalpur, by order dated 11.10.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted that the petitioners are in custody since 07.09.2022 on the accusation of possessing contraband (ganja) to the tune of 23 Kg and as charge sheet has been filed on 06.12.2022. It is submitted that keeping in view the nature of seizure, further continuance of the petitioners in custody is not warranted.

5. It is submitted by the learned counsel for the petitioners that the seizure was from a public place that is the railway platform and hence conscious exclusive possession cannot be attributed to the petitioners. Hence the rigors of 37 of the NDPS Act are not attracted in the case at hand.

6. Learned counsel for the State opposes the prayer for bail and submits that defence plea of false implication in view of contraband being more than the commercial quantity cannot be taken into account at this stage in view of operation of Section 37 of the NDPS Act.

7. Considering the manner of seizure, this Court directs the petitioners to be released on bail on such terms to be fixed by the learned Court in seisin.

8. To allay the apprehension that the petitioners are not residing within the State of Odisha while releasing, the learned Court is called upon to fix suitable terms and additionally, it is directed that one of the sureties so fixed shall be immediate member of the family of the petitioners. In the event he/she is not able to given any property security to the satisfaction of the learned Court in seisin, shall execute a P.R. bond.

9. Further it is directed that the petitioners shall appear before the police station of his own District once every week on such date and time to be specified by the learned Court in seisin till conclusion of trial and certification of such appearance shall be uploaded on the web site of the Court whose E.mail I.D. shall be mentioned in the order and the learned Court is requested to verify the criminal antecedent of the petitioners from the said police station and if it comes to the fore that the petitioners are involved **in any offence**, 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

Santoshi

