

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10431 of 2022

Bhuban Gaigouria

....

Petitioner

Mr. J.K. Panda, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
15.12.2022

Order No.

02.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in connection with Special Case No.35 of 2022 (NDPS), pending in the Court of learned Sessions Judge-cum-Special Judge, Boudh, arising out of Boudh P.S. Case No.249 of 2022, for alleged commission of offences under Section 20(b)(ii)(C) of the N.D.P.S. Act.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge, Boudh, by order dated 12.10.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted by the learned counsel that the petitioner is in custody since 10.09.2022 and since charge-sheet has already been filed on 05.11.2022, further continuance of the petitioner in custody is unwarranted.

5. It is submitted by the learned counsel that the allegation against the petitioner is that when he was standing near the Karadapada village Chhak, he was detained and is accused of possessing contraband to the tune of 36Kgs Ganja.
6. It is submitted with vehemence that the manner in which the seizure was affected from a public place, conscious exclusive possession cannot be attributed to the petitioner.
7. Learned counsel for the State opposes such submission in view of the bar contained under Section 37 of the NDPS Act.
8. Taking into account the manner of seizure and that the petitioner is the first offender, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.
9. While releasing the petitioner on bail, the learned Court in seisin over the matter shall verify assertion regarding criminal antecedents of similar nature. If it comes to the fore that the petitioner has such criminal antecedent, 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

Ayesha