

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10434 of 2022

Prasanta Naik

....

Petitioner

Mr. S.S. Ray (2), Advocate

-versus-

State of Odisha

....

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 2(a) CC Case No.41 of 2022, pending in the Court of the learned Sessions Judge-cum-Special Judge, Cuttack, arising out of P.R. Case No.175 of 2022-23, for alleged commission of offences under Section 20(b)(ii)(C) of NDPS Act.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Cuttack, by order dated 19.08.2022 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 13.07.2022 and final P.R. has been submitted on 22.11.2022.

5. It is submitted that the petitioner is the driver of the TATA TIGOR vehicle from which contraband to the tune of 43Kgs (Ganja) was seized.

6. It is also submitted that the petitioner was a paid driver and as such had no control over the goods being carried in the vehicle. Even otherwise it is submitted that the petitioner is the first offender and the manner in which the seizure has been affected, conscious exclusive possession cannot be attributed to the petitioner.

7. Learned counsel for the State opposes the prayer for bail relying on the bar under Section 37 of the NDPS Act.

8. Taking into account the period of custody 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 learned Court in seisin.

9. While releasing the petitioner, learned Court in seisin is called upon to verify assertion regarding the criminal antecedent 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