

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10534 of 2022

Sukadev Behera

....

Petitioner

Mr. C.R. Satapathy, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

14.12.2022

Order No.

02.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in 2(a) CC Case No.6 of 2022, pending in the file of learned Additional Sessions Judge, Salipur, arising out of P.R. Case No.78 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 his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Salipur by order dated 18.10.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted that the petitioner is in custody since 30.09.2022 and final P.R. has been submitted on 11.11.2022 and the contraband (Ganja) seized from the exclusive possession of the Petitioner was 21 Kg. Hence further continuance of the petitioner in custody is not warranted.

5. It is submitted that from the manner of seizure wrong weighment cannot be ruled out so as to attract the restriction under Section 37 of the NDPS Act.

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

7. Taking into account the contraband seized being less than the commercial quantity as prescribed and considering the period of custody and submission of final P.R., this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

8. 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 any criminal antecedents of similar nature, this order shall stand recalled.

9. Accordingly, the BLAPL stands disposed of.

10. Urgent certified copy of this order be granted as per the rules.

(V. NARASINGH)
Judge