

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8778 of 2020

Alok Moharana

....

Petitioner

Mr. S.K. Acharya, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

25.03.2022

Order No.

08.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned State counsel.
3. The petitioner is an accused in Spl. G.R. Case No.56 of 2020, on the files of learned Court of ADJ-cum-Special Judge, Padampur, Baragarh, arising out of Sohela P.S. Case No.161 of 2020, U/s.21(c)/25/29 of NDPS Act read with Section 120(B)/274/275 of IPC.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Padampur, by order dated 16.10.2020, in the

aforementioned case, the present BLAPL has been filed. Petitioner is in custody since 15.10.2020.

5. At the outset the learned counsel for the petitioner submits that in paragraph-5 of the BLAPL application petitioner has been inadvertently described as a driver but in fact he was a labourer and assigned with the job of loading and unloading. And as such no criminality can be attached to him more so as a paid employ he was travelling in the vehicle and is a victim of the circumstances.

6. Learned counsel for the State refutes such submission inter alia on the ground of the bar prescribed under Section 37 of the NDPS Act. Learned counsel for the petitioner relies on the order dated 08.12.2021 in BLAPL No.8777 of 2020 relating to the driver Guru Mirdha and order dated 21.03.2022 in BLAPL No.8779 of 2020 by which the owner of the vehicle was allowed to go on bail and seeks interference of this Court on the ground of parity.

7. On consideration of materials on record and taking into account the release of the driver and the owner in the aforementioned BLAPLs this Court directs, in the factual matrix of the case at hand, the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin of the matter since at this stage conscious exclusive possession of the NDPS Act cannot be attributed to the petitioner.

8. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi

