

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10810 of 2022

Mosaraf Miya

....

Petitioner

Mr. S.R. Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. S.S. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
30.11.2022

Order No.

02.

1. Learned counsel for the Petitioner is permitted to correct the cause title regarding description of the State in Court.
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The Petitioner is an accused in connection with 2(a)CC No.11 of 2022 arising out of P.R No.119 of 2022-23, pending on the file of the learned Addl. Sessions Judge, Rourkela for commission of offence under Section 20(b)(ii)(c) of the N.D.P.S Act.
4. Being aggrieved by the rejection of his application for bail U/s. 439 Cr.P.C. by the learned Special Judge, Rourkela by order dtd. 17.10.2022, the present BLAPL has been filed.
5. Learned counsel for the Petitioner submits that since he is in custody since 29.06.2022 and final P.R., which is on record, has been filed on 30.09.2022, he may be released on bail.

6. Learned counsel for the State opposes the prayer for bail, inter alia, relying on Section 37 of the N.D.P.S. Act inasmuch as it is stated that contraband (ganja) seized is to the tune of 28 Kg. 400 grm. being beyond the commercial quantity, keeping in view the rigors of Section 37 of the N.D.P.S. Act.

7. Considering the manner in which the seizure was effected from the railway station, conscious exclusive possible cannot be attributed to the Petitioner in the factual matrix of the present case. Taking into account the filing of the final P.R. and the period of custody, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned court in seisin over the matter.

8. Additionally, it is directed that since the Petitioner does not reside within the territorial jurisdiction of the learned Court in seisin over the matter, suitable terms to be fixed including local surety to ensure his presence during the course of trial.

9. Learned Court in seisin over the matter shall verify the criminal antecedents of any nature. If it comes to the fore that the Petitioner has any criminal antecedent, this order shall stand recalled.

10. The BLAPL thus stands disposed of.

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

(V. NARASINGH)
Judge

PKS