

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10889 of 2022

Ajay Mishra

....

Petitioner

Mr. A.K. Raut, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
06.12.2022

Order No.

01.

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 No.18 of 2022, pending in the Court of learned Special Judge, Jharsuguda, arising out of District Mobile, Jharsuguda P.R. No.67 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 Special Judge, Jharsuguda, by order dated 27.10.2022 in the aforementioned case, the present BLAPL has been filed.
4. Perused the order of rejection.
5. It is submitted by the learned counsel that the petitioner is in custody since 10.07.2022 and since charge-sheet has been filed

on 21.10.2022, further continuance of the petitioner in custody is unwarranted.

6. It is the submission of the learned counsel for the petitioner that the seizure was from a public place and as such conscious exclusive possession cannot be attributed to the petitioner and it is submitted that he is a victim of the circumstances.

7. Learned counsel for the State opposes the prayer, relies on the bar contained under Section 37 of the NDPS Act and also states that the bogey of false implication cannot be gone into at this stage. It is also the further submission of the learned counsel for the State that since the petitioner does not reside within the territorial jurisdiction of the Court in seisin and in fact admittedly not being a resident of the State, his presence would be difficult to secure his attendance during the trial. Hence, opposes the prayer for release.

8. Considering the manner in which the seizure was affected and the quantity of contraband (26Kgs 800gms Ganja), 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. Additionally it is directed that one of the members of the family shall execute a personal bond in addition to the sureties as fixed by the learned Court in seisin, keeping in view that the petitioner does not reside within the jurisdiction of the Court and the State and in fact he is not a resident of the State, as noted.

11. Accordingly, the BLAPL stands disposed of.
12. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Ayesha

