

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9234 OF 2020

Madhusudan Golori

..... ***Petitioner***
Mr. Manoranjan Padhy, Advocate

-versus-

State of Odisha

..... ***Opposite Party***
Mr. K.K. Gayak, ASC

CORAM:

JUSTICE V. NARASINGH

ORDER

28.06.2022

Order No.

13.

1. This matter is taken up through Hybrid Mode.
2. Heard learned Counsel for the petitioner and learned Counsel for the State.
3. The petitioner is an accused in connection with T.R. Case No. 44 of 2020 corresponding Nandapur P.S. Case No. 54 of 2020, pending on the file of the learned Addl. Sessions Judge-cum-Special Judge, Koraput for the alleged commission of offence under Sections-20(b)(ii)(C)/29 of the NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s. 439 Cr.P.C. by the Addl. Sessions Judge-cum-Special Judge, Koraput by Order dtd. 10.08.2020 in T.R. No.44 of 2020, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that he was the pillion rider of the bike which has been falsely implicated in the case at hand on the allegation of escorting the truck in which the

contraband to the tune of 8 Quintal 50 Kilogram was being carried. It is submitted that since admittedly there was no seizure from the petitioner or the bike, the conscious and exclusive possession cannot be attributed to him and it is further submitted that though the petitioner is in custody since 27.07.2020, trial has not commenced and therefore it is stated that the case of the petitioner merits consideration of this Court.

6. Per contra, Learned counsel for the State opposes the prayer for bail relying on the Bar contained under Section-37 of the NDPS Act, and also stating that at this stage it is not open to the Court make fine distinction regarding complicity of the petitioner.

7. Considering that, there has been no seizure from the petitioner or the bike and taking into account the period of custody and trial having been not commenced and keeping in view the law laid down in the case of ***Hussainara Khatoon & Others Vrs. State of Bihar***, reported in ***(1980) 1 SCC 81***, this Court directs the petitioner shall be released on bail on such terms to be fixed by the learned Court in seisin over the matter.

8. The BLAPL thus stands disposed of.

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

Balaram

**(V.Narasingh)
Judge**