

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9650 of 2020

Sagir Khan

....

Petitioner

Mr. D.R. Bhokta, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
07.04.2022

Order No.

05.

1. This matter is taken up through hybrid mode.
2. Heard Mr. D.R. Bhokta, learned counsel for the petitioner and Mr. Karunakar Gaya, learned Additional Standing Counsel for the State.
3. The petitioner is an accused in T.R. Case No.463 of 2020, on the files of learned District and Sessions Judge, Khurda, arising out of Laxmisagar P.S. Case No.329 of 2020, under Sections 20(b)(ii)(c) of the NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned District and Sessions Judge, Khurda, by order dated 09.12.2020 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that he is a pillion rider of the Motor Cycle on which the contraband was being carried.
6. And it is further submitted that the other motor cycle which was also intercepted contraband to the tune of 42kgs was

recovered which is more than the contraband seized from the vehicle in which he is a pillion rider and it is submitted that since this Court by order dated 09.03.2022 in BLAPL No.6641 of 2021 have directed the release of the petitioner therein, on the ground of parity, the petitioner seeks bail.

7. Learned counsel for the State opposes the move in view of the bar contended under Section 37 of the NDPS Act.

8. Considering the submission that the petitioner being similarly circumstanced with the co-accused released on bail by this Court as per the order refer to above and being cognizant of the fact that the petitioner is in custody and the trial has not commenced, as in tune with the dictum of the Apex Court in the case of *Hussainara Khatoon (I) v. State of Bihar* reported in *(1980) 1 SCC 81*, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin of the matter.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi