

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 545 of 2021

S.K. Saber

....

Petitioner

Mr. D. Routray, Advocate

-versus-

State of Odisha

....

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
09.05.2022

Order No.

10.

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 T.R. Case No.463 of 2020, on the files of learned District & Sessions Judge, Khurda, At-Bhubaneswar, arising out of Laxmisagar P.S. Case No.329 of 2020, under Sections 20(b)(ii)(c) of the N.D.P.S. Act and is in custody since 01.12.2020.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Court of the District & Sessions Judge, Khurda at Bhubaneswar, 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 was a pillion rider of the vehicle from which the contraband was recovered.

6. Learned counsel for the petitioner relying on the order of this Court dated 09.03.2022 in BLAPL No.6641 of 2021 and on 07.04.2022 in BLAPL No.9650 of 2020 seeks bail inter alia on the ground of parity.

7. It is submitted that the petitioner is all fours with one Manir Khan who was directed to be released on bail as per the order referred to above.

8. Learned counsel for the State opposes the prayer for bail inter alia on the ground that at this stage it is not open for the Court to entertain the bail application on the ground of parity in view of the specific bar enacted by the legislature.

9. Taking into account the release of the co-accused and the period of detention and taking note of submissions of the learned counsel for the petitioner that the trial has not commenced, relying on the judgment 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 learned Court in seisin over the matter.

10. It is submitted by the learned counsel for the petitioner that the petitioner has no criminal proclivity. While enlarging on bail if it comes to the fore that the petitioner has any criminal antecedent, this order shall stand recalled without any further reference to this Court.

11. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi