

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 1787 of 2022

Joseph Kandhapan

....

Petitioner

Mr. T. Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P. Mohapatra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
30.06.2022

Order No.

03.

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.23 of 2018, on the files of learned Sessions Judge-cum-Special Judge, Koraput, arising out of Boriguma P.S. Case No.91 of 2018, under Sections 20(b)(ii)(C)/29 of the NDPS Act and is in custody since 13.05.2018.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the Sessions Judge-cum-Special Judge, Koraput, by order dated 14.02.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner placing reliance on the order passed by this Court in 26.02.2021 in BLAPL No.5632 of 2020 seeks release inter alia on the ground of parity.

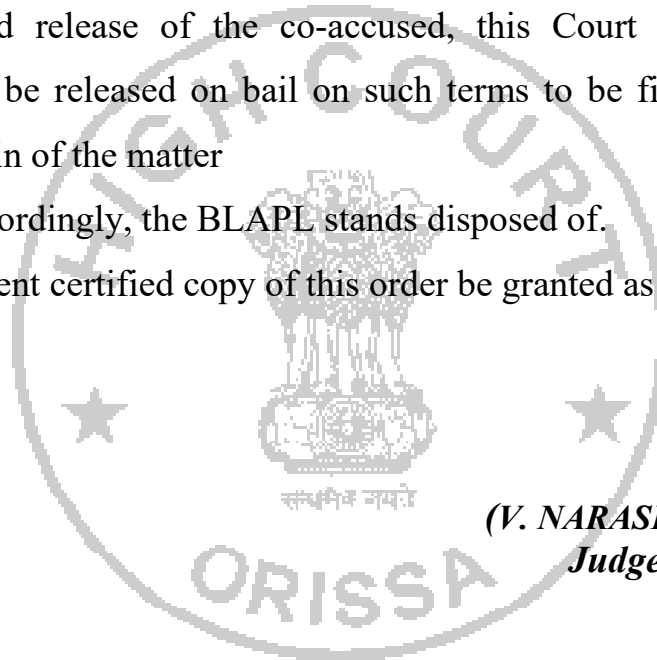
6. Learned counsel for the State opposes such prayer on the ground that the petitioner cannot be said to be similarly circumstanced hence he is the owner of the vehicle from which the contraband was recovered.

7. Admittedly the petitioner is in custody since 13.05.2018 and it is stated at the bar that the trial has not commenced.

8. Taking note of non-commencement of trial and keeping in view of the law laid down by the Apex Court in the case of *Hussainara Khatoon & Ors vs. State of Bihar* reported in (1980) 1 SCC 81, and release of the co-accused, 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