

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2494 of 2021

Giri Kanhar

....

Petitioner

Mr. J.K. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

11.05.2022

Order No.

09.

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 C.T. Case No.209 of 2019/ Special Case (NDPS) Case No.33 of 2019, on the files of learned Sessions Judge-cum-Special Judge, Boudh, arising out of Boudh P.S. Case No.74 pf 2019, under Sections 20(b)(ii)(C) of the NDPS Act and is in custody since 22.03.2019.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Boudh, by order dated 08.05.2019 in the aforementioned case, the present BLAPL has been filed.

5. Learned counsel for the petitioner submits that though he is in custody since 22.03.2019, trial has not commenced in fact it is stated that charge has not been framed.
6. And, on the ground of pre-trial detention, the learned counsel for the petitioner submits that that he is entitled to be released on bail.
7. Learned counsel for the State submits that there are materials on record which directly implicate the petitioner. The co-accused who is none other than brother of the petitioner is an absconder. But, fairly does not dispute the factum of non-commencement of trial as submitted by the learned counsel for the petitioner.
8. Taking into account the period of custody and relying on the judgment of the Apex Court in the case of ***Hussainara Khatoon & Ors vs. State of Bihar*** reported in ***1979 AIR 1369***, this Court directs petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter.
9. Additionally, it is directed that the petitioner shall appear before the jurisdictional Police Station once every fifteen days. First date of appearance to be fixed by the learned Court below.
10. Violation of condition of such appearance shall entail cancellation of bail by the learned Court in seisin over the matter after following the due process of law without any further reference of this Court.
11. It is submitted by the learned counsel for the petitioner that the petitioner has no criminal proclivity. While enlarging the petitioner on bail the learned court below shall verify such assertion. If it comes to the fore that the petitioner has any criminal antecedent this order shall stand recalled.

12. The present BLAPL is disposed of accordingly.
13. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge

Santoshi

