

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4330 of 2022

Monfi Kumar

....

Petitioner

Mr. A. Das , Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

19.12.2022

Order No.

03.

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner is an accused in C.T. Case No.69 of 2021, pending in the file of learned Sessions & Special Judge, Kalahandi, Bhawanipatna arising out of Kesinga P.S. G.D Case No.9 of 2021, for alleged commission of offence under Sections 20(b)(ii)C of the NDPS Act.

3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge, Kalahandi, Bhawanipatna by order dated 26.04.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted that the petitioner has been taken into custody since 26.10.2021 and primarily charge sheet has already been filed on 20.04.2022 and final charge sheet has been filed on 01.11.2022, his further continuance in custody is not warranted, taking into account the manner in which he is being implicated for possessing contraband to the tune of 61.262 grams of ganja.

5. Learned counsel for the State opposes the prayer inter alia relying on the bar contained under Section 37 of the NDPS Act.
6. It is stated at the bar that though the petitioner is in custody for more than one year, trial has not commenced.
7. Taking into account the dictum of the Apex Court in the Case of *Hussainara Khatoon & Ors vs. 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.
8. Since the petitioner is not a resident of the state of Odisha, taking into account the submission of the learned counsel for the State that it would be difficult to secure his presence at trial, this Court directs that suitable terms be fixed by the learned Court in seisin after getting report from the concerned police station from Bihar regarding his criminal antecedent. If it comes to the fore that the petitioner has any criminal antecedent since he is from the outside state, this order shall stands recalled.
9. Additionally, it is directed that one of the immediate members of the family of the petitioner shall execute the P.R. bond in addition to the sureties fixed by the learned Court in seisin.
10. Accordingly, the BLAPL stands disposed of.
11. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge