

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4352 of 2022

Madhaba Harijan

....

Petitioner

Mr. R.L. Pattnaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

14.10.2022

Order No.

01.

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 connection with Special T.R. Case No.116 of 2020, pending in the Court of learned Sessions Judge-cum-Special Judge, Malkangiri in the District of Malkangiri arising out of P.R. Case No.50 of 2020-21 of Excise Station, Balimela, for alleged commission of offences 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 Sessions Judge-cum-Special Judge, Malkangiri by order dated 02.05.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that the co-accused has been released on bail by this Court by order

dated 22.03.2022 in BLAPL No.1817 of 2021. Hence, he seeks release of the petitioner, inter alia on the ground of parity, since the petitioner is stated to be in custody 29.09.2020.

6. Learned counsel for the State opposes the prayer for bail relying on the bar contained in Section 37 of the NDPS Act and also on the ground that prima facie the petitioner is not similarly circumstanced with the co-accused, as noted above.

7. It is further submitted by the learned counsel for the petitioner that petitioner is in custody since 29.09.2020 and trial has not yet commenced.

8. Considering the submissions and keeping in view 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***, 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. Learned Court in seisin over the matter to fix the terms to ensure his presence on each date of trial.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge