

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4556 of 2021

Raiman Gamongo

....

Petitioner

Mr. S.K. Dash, Advocate

-versus-

State of Odisha

....

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

11.04.2022

Order No.

09.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned Additional Standing counsel for the State.
3. The petitioner is an accused in G.R. Case No.33 of 2021, on the files of learned Special Judge, Gajpati at Parlakhemundi, arising out of Mohana P.S. Case No.32 of 2021, under Sections 20(b)(ii)(c)/25/29 of the NDPS Act and is in custody since 22.04.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge, Gajpati at Parlakhemundi, by order dated 09.06.2021 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that the basis of implication is the statement of co-accused and relying on the judgment of the Apex Court in the Case of *Toffan Singh vs. The State of Tamil Nadu*, reported in (2013) 16 SCC 31 seeks the indulgence of this Court.

As according to him he is in custody since 22.04.2021 and further continuance is not warranted and is in fact punitive.

6. Per contra the learned counsel for the State referring to the recitals in the case dairy submits that there are materials on record to connect that the present petitioner actively coniving with the accused persons and at this stage it cannot be said that there is no other material other than the co-accused statement as submitted by the learned counsel for the petitioner and even other wise on the basis of materials on record, in view of the bar under Section 37 NDPS Act, the petitioner is not entitled to be released on bail.

7. Taking into account that the basis of implication is primarily on the statement of the co-accused, in view of the law laid down by the Toffan Singh (Supra) and being cognizant of the fact that co-accused has already been released by this Court by order dated 09.03.2022 in BLAPL No.6557 of 2021, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin of the matter with the condition that he shall appear before the jurisdictional police station once every fort night. The learned court in seisin over the matter shall fix the date of first appearance and the subsequent dates.

8. Violation of any of the terms and conditions shall entail cancellation of bail.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi