

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6246 of 2022

Gourapada Mandal

....

Petitioner

Mr. A.K. Jena, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

17.11.2022

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 T.R. Case No.86 of 2020, pending before the Court of the learned Sessions Judge-cum-Special Judge, Malkanagiri, arising out of Mathili P.S. Case No.301 of 2020, for alleged commission of offences under Sections 20(b)(ii)(C) and 27-A of NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge, Malkangiri, by order dated 24.05.2022 in the aforementioned case, the present BLAPL has been filed.
5. This is the second journey of the petitioner to this Court.
6. It is submitted by the learned counsel for the petitioner that co-accused persons similarly placed have been released on bail by

this Court by order dated 19.05.2022 in BLAPL No.3335 of 2022 and by order dated 21.06.2022 in BLAPL No.227 of 2021, hence inter alia on the ground of parity, the petitioner seeks release.

7. Learned counsel for the State opposes the prayer for bail on the ground that in view of the bar contained under Section 37 of the NDPS Act, ground of parity as urged cannot be taken into account.

8. Considering the submissions made and keeping in view the period of custody of the petitioner and trial not having commenced and keeping in view of the order passed by the Apex Court, in the case of *Hussainara Khatoon & Others Vrs. State of Bihar*, reported in *(1980) 1 SCC 81* and the release of the co-accused as per the order referred to hereinabove, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.

9. While releasing the petitioners on bail, the learned court in seisin over the matter shall verify criminal antecedent of the petitioner. If it comes to the fore that the petitioner has any criminal antecedent, this order shall stand recalled.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha