

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6398 of 2022

Rajendra Bisoi

....

Petitioner

Ms. Eleena Dash, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
26.09.2022

Order No.

03.

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 Special G.R. Case No.89 of 2022 pending in the file of learned Sessions Judge-cum-Special Judge, Malkangiri, arising out of Malkangiri P.S. Case No.292 of 2022, offence under Section 20(b)(ii)C of the N.D.P.S. Act and is in custody since 23.05.2022.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge, Malkangiri by order dated 25.05.2022 in the aforementioned case, the present BLAPL has been filed.
5. In spite of two opportunities, learned counsel for the State is not able to produce the case diary.

6. It is submitted by the learned counsel for the Petitioner that contraband article seized from him is to the tune of 11 kg. 200 grms. and the same is less than the commercial quantity. Hence, the case of the Petitioner may be liberally considered.

7. Learned counsel for the State, relying on the order of rejection and relying on Section 37 of the N.D.P.S Act, submits that such bifurcation of the contraband article which is more than the commercial quantity is not permissible at this stage.

8. Taking into account the nature of allegation vis-à-vis the manner of seizure, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned court in seisin over the matter.

9. While enlarging the Petitioner on bail the learned court below shall verify assertion regarding his criminal proclivity. 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

PKS