

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6551 of 2022

Dhanjee Kumar & Another ***Petitioners***

Mr. S.R. Das, Advocate

-versus-

State of Odisha ***Opposite Party***

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
02.09.2022

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 Biramitrapur P.S. Case No.241 of 2021 corresponding to Special G.R. Case No.13 of 2021, pending in the file of learned 1st Additional District Judge, Rourkela, under Sections 20(b)(ii)(C)/29 of NDPS Act.
4. Being aggrieved by the Rejection of his application for bail U/s.439 Cr.P.C. by the learned 1st Additional Sessions Judge-cum-Special Judge, Rourkela, by order dated 02.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that co-accused similarly circumstanced has been released on bail by order dated 16.05.2022 in BLAPL No.3426 of 2022 (Priyanshu Kumar @

Priyanshu Kumar Ray), hence release of the petitioner is prayed for inter alia on the ground of parity.

6. While learned counsel for the State not refuting that the petitioner is similarly circumstanced submits that in view of the Bar contained under Section 37 of the NDPS Act, the petitioner is not entitled to be released and more so when he is an outsider he is a flight risk.

7. Taking into account the release of the co-accused and non commencement of trial and keeping in view the law laid down in view of the judgment of the Apex Court in the case of **Hussainara Khatoon & Others Vrs. 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 Court in seisin over the matter.

8. Additionally it is directed that of the two sureties one should be immediate member of the family and the other should be a local person.

9. While releasing the petitioner on bail, learned Court shall verify regarding the criminal antecedents of the petitioner.

10. If it comes to the fore that the petitioner has any criminal antecedent then the order shall stand recalled without any further reference to this Court.

11. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha