

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5661 of 2021

Sugyani Behera

....

Petitioner

Mr. L. Mahapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
19.04.2022

Order No.

04.

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 T.R. Case No.189 of 2021, on the files of learned Sessions Judge, Khordha, arising out of Bharatpur P.S. Case No.123 of 2021, under Sections 20(b)(ii)(C) of the NDPS Act and is in custody since 08.04.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Court of District & Sessions Judge, Khurda, Bhubaneswar, by order dated 23.06.2021 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that the contraband was not seized from the exclusive and conscious possession of the petitioner, hence the bar under Section 37 of the NDPS Act is not attracted in the case at hand. He relies on the order of

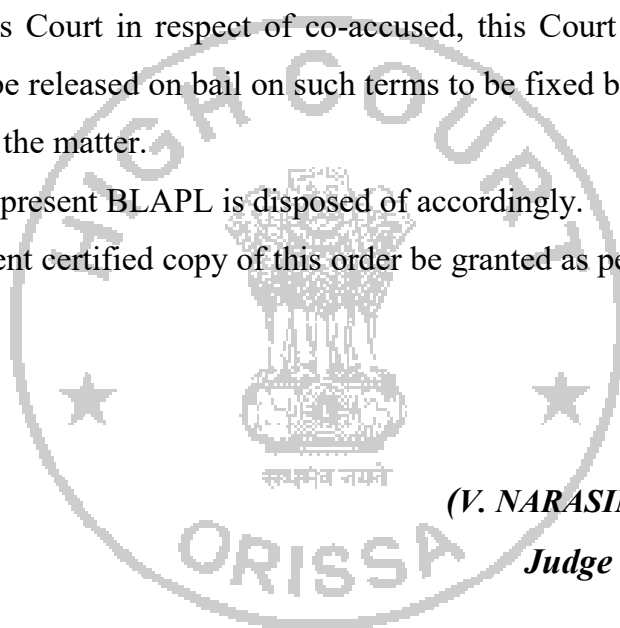
this Court dated 17.03.2022 in the case of co-accused Kumari Behera in BLAPL No.6924 of 2021 and seeks release inter alia on the ground of parity.

6. Learned counsel of the State submits that since the contraband is beyond the commercial quantity, in view of the bar under Section 37 of the NDPS Act, petitioner's prayer for bail is to be rejected.

7. On a conspectus of materials on the record, taking into account the quantity of contraband seized and in view of the order passed by this Court in respect of co-accused, 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. The present BLAPL is disposed of accordingly.

9. Urgent certified copy of this order be granted as per rules.



(V. NARASINGH)

Judge

Santoshi