

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 5639 OF 2020

Siba Pradhan

..... *Petitioner*
Mr. Manas Chand, Adv.

-versus-

State of Odisha

..... *Opposite Party*
Mr. D.Mund, AGA

CORAM:
JUSTICE V. NARASINGH

ORDER
05.05.2022

Order No.
12.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the parties.
3. The Petitioner is an accused in connection with Special Case (NDPS) No. 117 of 2019 arising out of Kantamal P.S. Case No. 77 of 2019 on the file of learned Special Judge, Boudh registered for the alleged commission of offence under 20(b)(ii)(C) of the NDPS Act.
6. Being aggrieved by the rejection of his application for bail U/s 439 Cr.P.C. by the learned Special Judge, Boudh by order dated 29.07.2020 the present BLAPL has been filed.
7. Learned counsel for the petitioner submits that there is no basis for implication excepting on the basis of the information of the spy engaged by the prosecution.
8. It is further submitted that in the meanwhile two witnesses have been examined and it has come to the fore that the

detection was on the basis of the statement of the villagers and not by the spy. Relying on such statement, it is submitted by the learned counsel for the petitioner that in view of the patent contradiction in the case of prosecution further continuance of the petitioner in custody is not warranted and in fact is punitive.

9. To substantiate his submission learned counsel for the petitioner relies on the judgment of the Karnataka High Court in the case of **Shankar Krishnasa Habib vrs. State of Karnataka**, reported in 1992 0 CrLJ 205. On a bare perusal of the order relied upon by the learned counsel for the petitioner, it can be seen that the stage at which the matter engaged the attention of the Karnataka High Court is not clear even otherwise, this Court with respect states that it is not persuaded by the line reasoning of the Karnataka High Court.

10. Learned counsel for the State referring to the conduct of the petitioner states that there is every chance of the petitioner fleeing justice in case he is released on bail and it will affect the trial.

11. Considering the materials on record and taking into account the supervening circumstances, this Court is not inclined to exercise its discretion under Section 439 Cr.P.C. since trial has commenced since P.W. 2 is stated to have been examined on 6th of January, 2022 this Court calls upon the learned court in seisin over the matter to conclude the trial within a period of six months from the date of production/receipt of copy of this order.

12. Registry is called upon to send a copy of this order to the court in seisin over the matter.

13. On the prayer of the learned counsel for the petitioner, it is further observed that in the event the trial is not concluded within the time stipulated, it shall be open to the petitioner to renew his prayer, if delay is not attributable to him.

14. The BLAPL stands disposed of.

(*V.Narasingh*)
Judge

Dhal

