

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6706 of 2022

Sagar Jena

....

Petitioner

Mr. S. Mitra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
07.09.2022

Order No.

02.

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 accused in Chandrasekharpur Police Station BBSR P.S. Case No.366 of 2021 corresponding to T.R. Case No.368 of 2021, pending before the learned Hon'ble Sri Patel 5th ADJ LRS Bhubaneswar, Khurda, for alleged commission of offences under Section 29/21(c) of NDPS Act.
4. Being aggrieved by the Rejection of his application for bail U/s.439 Cr.P.C. by the learned 5th Additional District Judge, Bhubaneswar, by order dated 02.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that the basis of accusation is on account of co-accused statement and it is further submitted that the seizure of contraband was from one Megha @ Bihari @ Susant Kumar Sahoo from whom 253gms of brown sugar was recovered.

6. It is submitted that this Court by order dated 06.01.2022 have directed for release of co-accused Santosh Behera who is similarly circumstanced, hence pleading on the ground of parity and relying on the judgment of the Apex Court in the case of ***Tofan Singh vs. Tamil Nadu***, reported in ***(2020) 80 OCR (SC) 641*** Prays for release of the petitioner.

7. Learned counsel for the State opposes the prayer for bail and submits that the ratio of ***Tofan Singh*** (supra) cannot come into play at the stage of consideration of bail and more so when the contraband is more than the commercial quantity.

8. Taking into account the release of the 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.

9. It is submitted that the petitioner has no criminal proclivity, while releasing the petitioner on bail the learned Court below shall verify such assertion. If it comes to the fore that the petitioner has any criminal antecedent this order shall stand recalled without any further reference to this Court.

10. Additionally it is directed that the petitioner shall appear before the jurisdictional police station once every week till conclusion of trial.

11. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha