

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6855 of 2022

Ajay Nayak @ Gandhi

....

Petitioner

Mr. P.K. Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
15.09.2022

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 Brahmanitarang P.S. Case No.191 of 2021 corresponding to Special G.R. Case No.11 of 2021, pending in the Court of the learned Additional Sessions Judge – cum-Special Judge, Rourkela, for the alleged commission of offences under Section 20(b)(ii)(C) of NDPS Act read with Section 25 of Arms 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 11.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. Perused the order of rejection.
6. Considering the release of the co-accused by order dated 28.06.2022 in BLAPL No.5164 of 2022 and order dated 25.07.2022 in BLAPL No.6208 of 2022 relating to the co-accused, it is

submitted by the learned counsel for the petitioner that the petitioner is similarly circumstanced, hence he is entitled to be released on bail.

7. Learned counsel for the State relying on the order of rejection submits that since the contraband seized is more than the commercial quantity, question of parity cannot be entertained in view of the Bar under Section 37 of the NDPS Act.

8. Taking into account the release of the co-accused as stated above, 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. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha