

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6880 of 2022

Manoj Kumar Majhi

....

Petitioner

Mr. M.K. Sahu, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
20.10.2022

Order No.

03.

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 Special (N.D.P.S) Case No.167 of 2013, pending in the file of learned Additional Special Judge-cum-Additional Sessions Judge, Angul, arising out of P.R. Case No.159 of 2013-14 (E.I. & E.B. Unit-I, Cuttack), offence under Sections 20(b)(ii)(c) of the NDPS Act.
4. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Additional Special Judge-cum-Additional Sessions Judge, Angul by order dated 27.05.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner relying on the Form No.- C-2 of P.R. No.159/13-14 of the case at hand states that admittedly accused not present at the time of seizure.

6. Hence it is stated that notwithstanding with the quantity, which is admittedly beyond the commercial quantity the bar under Section 37 of the NDPS Act is not attracted in the case at hand.

7. It is also submitted with vehemence that there are materials on record to show that the house from which the seizure has been made, does not belong to the petitioner.

8. Learned counsel for the State on instruction submits that the petitioner has two criminal antecedents of the year 2011 though not of NDPS.

9. It is submitted by the learned counsel for the State that in view of the antecedents and as the petitioner was an absconding for a period of 9 years, as borne out from the order of rejection, the petitioner ought not to be released on bail.

10. Learned counsel for the petitioner so far as antecedent are concerned submits that since the antecedents do not relate to NDPS Act, the same cannot be taken into account while considering the bail application under NDPS Act.

11. Taking into account the submissions made at the bar, this Court is of the prima facie view that in view of the antecedents and keeping in view the stipulations as contained under Section 37 of the NDPS Act, the prayer for bail cannot be entertained at this stage. Accordingly, the same stands rejected.

12. The order of rejection states that the trial has already commenced. Learned Court in seisin over the matter is called upon to conclude the same within a period of six months from the date of receipt/production of certified copy of this order.

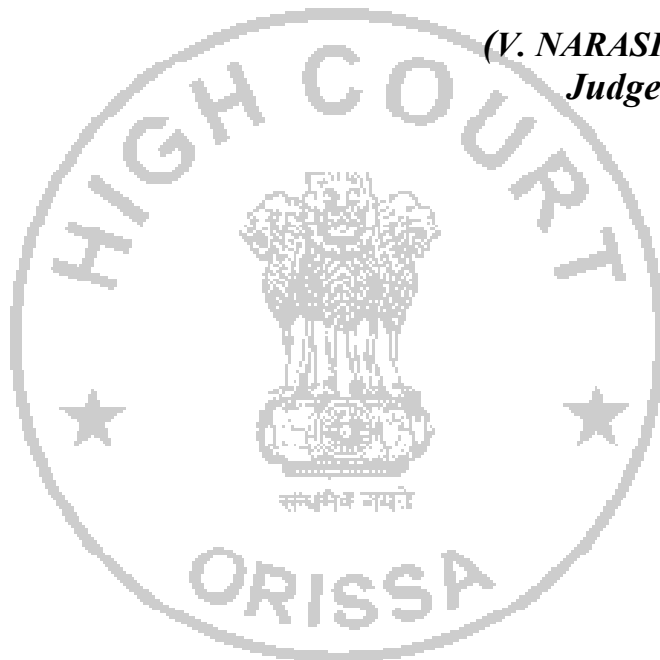
13. Registry is requested to communicate the same.

14. In the event trial is not concluded within the time stipulated, it shall be open to the petitioner to renew his prayer before the Court in seisin over the matter and same shall be considered on its own merits without being influenced by the earlier rejection or the order passed by this Court.

15. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge



Santoshi