

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6011 OF 2021

Amit Mandal

***..... Petitioner
Mr. A.K. Jena, Advocate***

-versus-

State of Odisha

***..... Opposite Party
Mr. K.K. Gaya, ASC***

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
11.05.2022**

**Order No.
02.**

1. This matter is taken up through Hybrid Mode.
2. The petitioner is an accused in Special 2(a) C.C. Case No. 03 of 2021 on the file of the learned Sessions Judge-cum-Special Judge, Malkangiri arising out of Malkangiri Excise Station P.R. No. 79 of 2020-21 alleged for commission of offence Under Sections- 20(b)(ii)(c) of the NDPS Act. and is in custody since 15.01.2021.
3. Being aggrieved by the rejection of his application for bail U/Sec. 439 Cr.P.C by the learned Sessions Judge-cum-Special Judge, Malkangiri by Order dtd. 06.07.2021 in Special 2(a) C.C. No. 03 of 2021, the present BLAPL has been filed.
4. Heard Mr. A. K. Jena, learned counsel for the petitioner and Mr. K.K. Gaya, learned counsel for the State.

5. Learned counsel for the petitioner submits that he is in custody since 15.01.2021 and trial has not commenced and relying on the citation of the Apex Court in the case of ***Hussainara Khatoon & Ors vs. State of Bihar*** reported in ***1979 AIR 1369*** prays to be released on bail on account of pretrial detention.

6. It is further submitted that the petitioner has no criminal proclivity and that the petitioner is the sole bread earner of his family and hence, seeks indulgence of this Court.

7. Learned counsel for the State referring to Section 37 of the NDPS Act submits that, in view of the statutory bar, petitioner is not entitled to be released on bail.

8. Considering the submission that the petitioner has no criminal proclivity and trial has not commenced, this Court directs the petitioner to be released on bail, on such terms and conditions to be fixed by the learned Court below.

9. While releasing the petitioner on bail, the learned Court below shall verify the statement that the petitioner has no criminal antecedent. In the event any criminal antecedent come to the fore, this order stands recalled without reference to this Court.

10. The Bail Application thus stands disposed of.

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