

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 7353 OF 2022

Mamata Senapati

..... ***Petitioner***
Mr. A.S.Paul, Adv.

-versus-

State of Odisha

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

CORAM:
JUSTICE V. NARASINGH

ORDER
24.08.2022

Order No.

01.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the parties.
3. Learned counsel for the petitioner is permitted to correct the T. R. Case number in Court.
4. The Petitioner is an accused in connection with T.R. Case No. 66 of 2022 arising out of Khurda Model P.S. Case No. 354 of 2022 on the file of learned 1st Addl. Sessions Judge-cum-Special Judge under NDPS Act, registered for the alleged commission of offence under Sections 21(b)/29 of the NDPS Act.
4. Being aggrieved by the rejection of her application for bail U/s 439 Cr.P.C. by the learned Special Judge Under NDPS Act, Khurda, by order dated 27.07.2022, the present BLAPL has been filed
5. Learned counsel for the petitioner submits that it is a case of false implication and because of the proviso under Section 437(1) Cr.P.C. the petitioner is entitled to be released on bail.

6. Learned counsel for the State opposes the prayer for bail since 71 grams of brown sugar was recovered from the petitioner and her co-accused which is more than the commercial quantity.

7. This Court is conscious of the intent of the legislature in providing a special provision for release of the woman by enacting proviso under Section 437(1) Cr.P.C. But the said proviso cannot be considered in isolation of the specific mandate as enjoined under Section 37(1) of the NDPS Act regarding the limitation to grant bail.

8. In the fact situation of the present case, this Court is not persuaded to invoke its power in terms of the proviso under Section 437(1) Cr.P.C. ignoring the specific bar contained under Section 37 of the NDPS Act and direct release of the petitioner on bail.

9. Hence, the application for bail stands rejected.

(*V.Narasingh*)
Judge

Dhal

