

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7456 of 2022

Debakanta Naik

....

Petitioner

Mr. S.K. Sahu , Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

20.12.2022

Order No.

03.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in connection with T.R. Case No.31 of 2022, pending in the Court of the learned Sessions Judge-cum-Judge (Special Court) Sambalpur, arising out of P.R. Case No.172 of 2022-23 of EI & EB Unit-II (ND), for commission of alleged offences under Sections 20(b)(ii)(C) of the NDPS Act.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Judge (Special Court), Sambalpur, by order dated 19.07.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted that the petitioner is in custody since 17.06.2022 and charge sheet has been filed on 13.12.2022. It is further submitted that independent seizure has been clubbed together so as to attract the bar under Section 37 of the NDPS Act.
5. Relying on the Form No.C-2 which is on record, it is stated that the seizure from the petitioner is to the tune of 18 kgs. Hence,

the bar under Section 37 is not attracted and the bail application of the petitioner may be favourably considered.

6. Learned counsel for the State opposes the prayer for bail inter alia on the ground that the bifurcation of seizure as prayed cannot be resulted to at the stage of consideration of the bail.

7. Considering the manner in which seizure has been effected and prima facie the seizure qua the petitioner being less than commercial quantity and that he is the first offender as stated, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

8. While releasing the petitioner on bail, learned Court below shall verify assertion regarding the **criminal antecedent of similar nature**. If the petitioner has any such criminal antecedent, this order shall stand recalled.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge