

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7555 of 2022

Dayadan Harijan

....

Petitioner

Mr. R.L. Pattnaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
20.10.2022

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 an accused in T.R. Case No.26 of 2021 pending in the file of learned Sessions Judge-cum-Special Judge, Nabarangpur, arising out of Kosagumuda P.S. Case No.59 of 2021, offence under Sections 20(b)(ii)(C)/29 of the N.D.P.S. Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Nabarangpur by order dated 04.08.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the Petitioner that the basis of implication of the Petitioner is on account of co-accused statement. Hence, it is submitted that the Petitioner is in

custody since 10.07.2022 and the charge sheet having been filed, further continuance of the Petitioner in custody is unwarranted.

6. Learned counsel for the State opposes the prayer for bail of the Petitioner, inter alia, relying on the statement of the wife of the present Petitioner Balamati Harijan, who has clearly implicated the present Petitioner.

7. It is also stated by the learned counsel for the State that in view of the bar contained in Section 37 of the N.D.P.S Act, the Petitioner ought not to be released on bail.

8. Admittedly, notwithstanding the statement of the Petitioner's wife, implication is prima facie on account of the co-accused statement. Hence, keeping in view the law laid down by the apex Court in the case of **Tofan Singh vrs. State of Tamil Nadu**, reported in **(2020) 80 OCR (SC) 641**, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned court in seisin over the matter.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS