

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7618 of 2022

***Pranchis Lima @ Phransis
Lima***

....

Petitioner

Mr. S.R. Mohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

**ORDER
16.12.2022**

Order No.

04.

1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in C.T Case No.09 of 2018 pending on the file of learned Addl. Sessions Judge-cum-Special Judge, Gunupur, arising out of Padmapur P.S. Case No.19 of 2018 for commission of offence under Section 20(b)(ii)(C) of the N.D.P.S. Act.

3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Addl. Sessions Judge-cum-Special Judge, Gunupur by order dated 12.07.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted by the learned counsel that the Petitioner is in custody since 12.07.2022 on the allegation that from the house

which stands in his name contraband (Ganja) to the tune of 189 Kg. 295 grams was recovered.

5. The factual matrix of the case makes curious reading.

6. It is on record that when the house was raided the wife of the Petitioner co-accused was present in the house and she has admitted that she stacked the ganja at the instance of her husband but for reasons best known the wife of the Petitioner though arrayed as an accused was not taken into custody and charge sheet has been filed showing her as an absconder so also her husband the present Petitioner.

7. Learned counsel for the State opposes the prayer on the basis of the recitals in the case diary and the bar contained in Section 37 of the N.D.P.S Act but does not dispute such position qua the wife of the present Petitioner.

8. Taking into account that the implication is based on co-accused statement and 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** and the **State of Haryana vrs. Samarth Kumar** reported in **2022 Live Law (SC) 622**, 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 to ensure his presence on each date of trial.

9. Additionally it is directed that the Petitioner shall appear before the jurisdictional police station once every week till conclusion of trial.

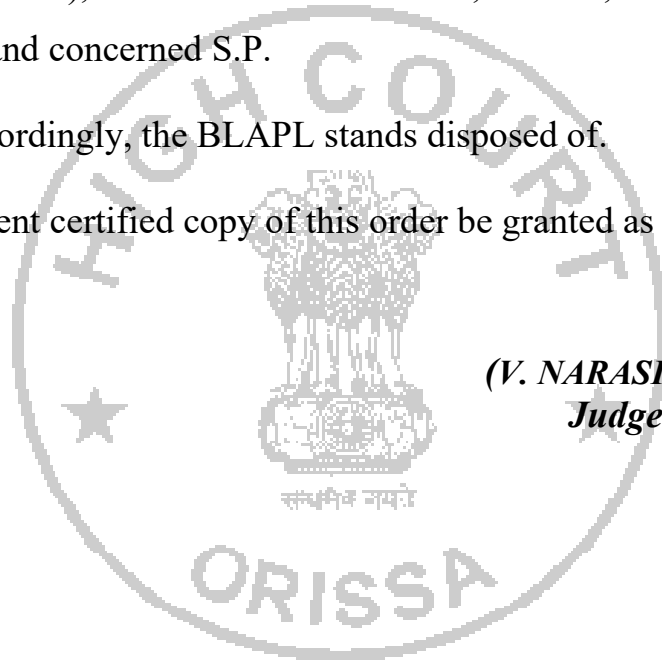
10. Before parting with the matter, the Superintendent of Police, Rayagada and I.G (Personnel) of the office of the D.G.P., Odisha are called upon to delve into the matter on the administrative side and initiate action against the I.O and other officials involved in the case in accordance with law in the event it is prima facie found that there is dereliction of duty during the course of investigation.

11. Registry is requested to send a copy of this order to the Secretary (Home), Government of Odisha, D.G.P., Odisha, I.G. (Personnel) and concerned S.P.

12. Accordingly, the BLAPL stands disposed of.

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

PKS



(V. NARASINGH)
Judge