

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7827 of 2022

Garuda Rout

....

Petitioner

Mr. R. Chhotray, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

30.08.2022

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 accused in connection with C.T. Case No.05 of 2021, on the files of learned Special Judge, Dharmagarh arising out of Jaipatna P.S. Case No.413 of 2021 under Sections 20(b)(ii)(c) of the NDPS Act.
4. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special Judge, Dharamagarh, by order dated 08.08.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that one Kasanu Naik was apprehended at the spot with the contraband was released on bail by this Court by order dated 21.07.2022 in BLAPL No.1487 of 2022 and it is stated that the petitioner is on a better footing than the said Kasanu Naik and it is stated that one accused Kamal Rout

similarly circumstanced was allowed to be released on bail by virtue of order passed by this Court by order dated 28.07.2022 in BLAPL No.6002 of 2022, hence on the ground of parity, the petitioner seeks bail.

6. It is further submitted that admittedly the implication of the petitioner is on basis of co-accused statement and there is no other credible material to connect with the contraband.

7. Learned counsel for the State opposes the prayer for bail submitting that since the contraband seized is admittedly much more than the commercial quantity no leniency can be shown to the petitioner and it is not open to Court at this stage to make a microscopic examination of the accusation.

8. Considering that the basis of implication of the petitioner was on the basis of co-accused statement and release of Kasanu Naik who was apprehended at the spot by order of this Court adverted to above and the manner of accusation vis-à-vis the petitioner, it cannot be said that conscious exclusive possession can be attributed to him. Keeping in view the law laid down by the Apex Court in the Case of *Tofan Singh vs. State of Tamil Nadu*, reported in **(2020) 80 OCR 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

Santoshi