

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8206 of 2022

Dillip Nayak

....

Petitioner

Mr. B. Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

13.12.2022

Order No.

02.

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

2. The Petitioner is accused in connection with T.R Case No.62 of 2021 arising out of Special G.R. Case No.33 of 2021 pending on the file of learned Special Judge, Puri, arising out of Kumbharpada P.S. Case No.71 of 2021, for commission of the offence alleged under Sections 21(b)(c)/29 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 2nd Addl. Special Judge, Puri by order dated 11.08.2022 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 16.03.2021 and charge sheet is filed on 13.05.2021. He further submits that the co-accused, namely, Deepak Nayak and Rajesh Panda have been released on bail by

order dated 25.07.2022 in BLAPL Nos.4386 and 4330 of 2021 respectively. Hence, he seeks release on the ground of parity.

5. Learned counsel for the State opposes the prayer referring to the bar contained in Section 37 of the N.D.P.S Act but with usual fairness does not dispute that prima facie the Petitioner is similarly circumstanced with the co-accused Rajesh Panda, who has since been released on bail by order dated 25.07.2022 in BLAPL No.4330 of 2021.

6. Considering the release of the co-accused and filing of the charge sheet, 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.

7. Learned counsel for the Petitioner submits that he is not in a position to apprise this Court about the criminal antecedent of the Petitioner.

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

9. The BLAPL thus stands disposed of.

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

(V. NARASINGH)
Judge

PKS