

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8275 of 2022

Krishna Gupta @ Kenia

....

Petitioner

Mr. T.K. Sahu, Advocate

-versus-

State of Orissa

....

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 an accused in Special G.R. Case No.113 of 2022, pending in the Court of the learned District & Sessions Judge-cum-Special Judge, Sundargarh, arising out of Sundargarh Town P.S. Case No.224 of 2022, for commission of alleged offences under Sections 21(b)/25/27(a)/29 of the NDPS Act.

3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge, Sundargarh, by order dated 21.07.2022 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 10.06.2022 and as charge-sheet has been filed on 07.08.2022, further continuance of the petitioner in custody is unwarranted.

5. Learned counsel for the petitioner relies on the orders in respect of the co-accused by order dated 01.11.2022 in BLAPL No.9228 of 2022, order dated 11.11.2022 in BLAPL No.6850 of

2022 and order dated 21.11.2022 in BLAPL No.10612 of 2022 and hence on the ground of parity, the petitioner seeks release.

6. Learned counsel for the State opposes the prayer for bail inter alia on the ground that the petitioner has criminal antecedents of similar nature.

7. Per contra, learned counsel for the petitioner submits that the very basis of implication in the case at hand is on account of the statement of the co-accused Md. Irshad and Hanjala Warsi (who have since been released on bail as noted above). Hence, the bar contained under Section 37 of the NDPS Act is not attracted in the case at hand as conscious exclusive possession cannot be attributed to the petitioner.

8. Such submission is opposed by the learned counsel for the State relying on the statutory prescription in terms of Section 37 of the NDPS Act.

9. Considering the release of the co-accused, quantity of the contraband (39gms 500mg, Brown Sugar) which is less than the commercial quantity and the period of custody, this Court directs the petitioner to be released on bail.

10. Learned Court in seisin to fix suitable terms keeping in view the criminal proclivity of the petitioner.

11. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge