

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8309 of 2022

Sambhu Jana and another ***Petitioners***

Mr. P.K. Khatei, Advocate

-versus-

State of Odisha ***Opposite Party***

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

16.11.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioners and learned counsel for the State.
3. The petitioners are accused in 2(a) CC No.-53 of 2022, pending in the file of learned Sessions Judge-cum-Special Judge, Cuttack, arising out of P.R. No.271 of 2022-23, for commission of alleged offences under Sections 20(b)(ii)C of NDPS Act and are in custody since 07.08.2022.
4. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Cuttack by order dated 17.08.2022 in the aforementioned case, the present BLAPL has been filed.
5. Since the consideration by learned Court below was prior to the filing of charge sheet, this Court is not inclined to entertain this bail application so far as Petitioner No.1 is concerned. The same accordingly stands rejected giving liberty to the Petitioner No.1 to renew his prayer post charge sheet which shall be

considered on its own merits without being influenced by the earlier rejection or the order passed by this Court.

6. So far as the Petitioner No.2 is concerned, it is stated at the bar that the Petitioner No.2 is diagnosed with liver cancer and he is undergoing treatment.

7. This Court by order dated 19.10.2022 had requested the learned counsel for the State to obtain instructions regarding the veracity of the health condition of the petitioner No.2. Learned counsel for the State on instructions submits that petitioner No.2 is diagnosed HIV positive.

8. Considering the same on humanitarian ground, this Court directs Petitioner No.2 to be released on bail on such terms to be fixed by the learned Court in seisin over the matter so as to ensure his presence on each date of trial.

9. Accordingly, the BLAPL along with I.A. stands disposed of.

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

(V. NARASINGH)
Judge