

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8370 of 2022

Basant Kumar Barik

....

Petitioner

Mr. B.R. Tripathy, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
22.11.2022

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 an accused in connection with G.R. Case No.42 of 2021, pending in the Court of the learned Special Judge, Gajapati, Paralakhemundi, arising out of Mohana P.S. Case No.45 of 2021, for alleged commission of offences under Sections 20(b)(ii)(C)/25/29 of NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special Judge, Additional Sessions Judge-cum-Special Judge, Paralakhemundi, by order dated 25.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner relying on the order passed by this Court dated 14.09.2022 in BLAPL No.3185 of 2021 submits that the co-accused who is similarly circumstanced has

been directed to be released on bail. Hence, inter alia on the ground of parity, the petitioner seeks release.

6. This Court perused the order passed by the Co-ordinate Bench and considering the submission of the learned counsel for the petitioner with reference to the materials on record including the FIR, seizure memo etc. is persuaded to hold that prima facie the petitioner is similarly circumstanced.

7. Learned counsel for the State opposes the prayer for bail on account of the bar contained in Section 37 of the NDPS Act and submits that inadvertently, the bar under Section 37 of NDPS Act was not brought to the notice of the Co-ordinate Bench.

8. Be that as it may, since admittedly the petitioner is in custody since 19.02.2021 and trial has not commenced, relying on the dictum of the Apex Court in the case of *Hussainara Khatoon & Others Vrs. State of Bihar*, reported in (1980) 1 SCC 81, wherein right to speedy trial has been held to be a facet of Article 21 of the Constitution, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.

9. While releasing the petitioner on bail, the learned Court below shall verify assertion regarding criminal antecedent of the petitioner. If it comes to the fore that the petitioner has any such criminal antecedent, this order shall stand recalled without any further reference to this Court.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha