

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8380 of 2022

Rintu Seikh

....

Petitioner

Mr. B.K. Das , Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

20.12.2022

Order No.

02.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in connection with G.R. Case No.90 of 2021, pending in the Court of the learned Special Judge, Mayurbhanj, Baripada arising out of Baripada Town P.S. Case No.983 of 2021 for commission of alleged offences under Sections 20(b)(ii)(C) 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, Mayurbhanj, Baripada, by order dated 28.07.2022 in the aforementioned case, the present BLAPL has been filed.
4. Perused the report submitted by the learned Court in seisin indicating that though the matter was posted on 14.10.2022 no prosecution witnessed turned up on the said date.
5. It is submitted by the learned counsel for the petitioner that as the petitioner is in custody since 24.11.2021 and the charge sheet has been filed on 18.05.2022, his further continuance in custody is not warranted.

6. Learned counsel for the petitioner submits that though there are materials on record to show that there is independent seizure of 12 kgs of contraband, it is stated in order to attract the bar under Section 37 of the NDPS Act the same has been clubbed together with other seizures and the total quantity has been shown as to 45 kgs 250 gms.

7. Hence, it is submitted that prima facie the bar under 37 of the NDPS is not attracted in the case at hand.

8. Learned counsel for the State opposes the prayer for bail and submits that the dissection of quantity as being made by the petitioner at this stage is not permissible in view of the stipulations contained in Section 37 of the NDPS Act.

9. At this stage the petitioner relies on the order passed by this Court dated 31.10.2022 relating to the co-accused Selim Mandal in BLAPL No.8392 of 2022 and on the ground of parity, he seeks release.

10. Considering the manner of seizure and taking into account the release of the co-accused, 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.

11. Taking into account that the petitioner does not reside the territorial jurisdiction of the learned Court in seisin over the matter, 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 so as to ensure his presence on each date of trial, if possible by directing for a local surety.

12. Additionally, it is directed that before releasing learned Court shall satisfy itself regarding criminal antecedent of the petitioner, since the petitioner does not reside within the territorial

jurisdiction of the Court in seisin. In the event there are any criminal antecedents, this order shall stand recalled.

14. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi

