

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8392 of 2022

Selim Mandal

....

Petitioner

Mr. B.K. Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

31.10.2022

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.90 of 2021 arising out of Baripada Town P.S. Case No.983 of 2021, pending on the file of the learned Special Judge, Baripada for the alleged commission of offence under Section 20(b)(ii)(c) of the N.D.P.S Act.
4. Being aggrieved by the rejection of his application for bail U/s. 439 Cr.P.C. by the Special Judge, Mayurbhanj, Baripada by order dated 28.07.2022, the present BLAPL has been filed.
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 18.5.2022, his further continuance in custody is unwarranted.

6. Learned counsel for the State opposes the prayer for bail, inter alia, on the ground that the contraband seized being to the tune of 45 Kg. 250 grams, in view of the bar contained in Section 37 of the N.D.P.S Act, the Petitioner ought not to be released on bail.

7. It is not in dispute that the Petitioner is in custody since 24.11.2021.

8. Perused the report relating to the stage of the trial received from the 2nd Addl. District & Sessions Judge, Baripada indicating, inter alia, that trial has not commenced.

9. Since the Petitioner is in custody for more than a year and keeping in view the mandate of the apex Court in the case **Hussainara Khatoon & others vrs. State of Bihar** reported in **(1980) 1 SCC 81**, this Court directs release of the Petitioner.

10. 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.

11. The BLAPL thus stands disposed of.

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

(V. NARASINGH)
Judge

PKS