

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8501 of 2022

Ratan Biswas

....

Petitioner

Mr. R.L. Pattnaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

21.12.2022

Order No.

02.

1. The name of Mr. Asit Kumar Jena be deleted from the cause list and file since Mr. R.L. Pattnaik, learned counsel has appeared on behalf of the Petitioner on the basis of prisoner's petition and Vakalatanama is on record.
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The Petitioner is an accused in Special G.R. Case No.68 of 2021 pending on the file of learned Sessions Judge-cum-Special Judge, Malkanagiri, arising out of Malkanagiri P.S. Case No.286 of 2021, for commission of offence under Sections 20(b)(ii)C/25/27-A/29 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 learned Special Judge, Malkanagiri by order dated 25.08.2022 in the aforementioned case, the present BLAPL has been filed.

5. It is submitted by the learned counsel that the Petitioner is in custody since 25.07.2022 and charge sheet has been filed on 23.01.2022 citing him as an absconder.

6. It is further submitted that the basis of implication is on account of the statement of the co-accused Kesa Madkani who apprehended at the spot on the allegation of contraband Ganja to the tune of 42 Kg. 600 grams being seized from the vehicle in which the said accused along with other including the Petitioner were travelling.

7. Learned counsel for the State opposes the prayer relying on the bar contained in Section 37 of the N.D.P.S Act.

8. Taking into account that the implication is based on co-accused statement and keeping in view the law laid down by the apex Court in the case of **Tofan Singh vrs. State of Tamil Nadu**, reported in **(2020) 80 OCR (SC) 641** and **the State of Haryana vrs. Samarth Kumar** reported in **2022 Live Law (SC) 622**, 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 to ensure his presence on each date of trial.

9. Additionally it is directed that the Petitioner shall appear before the jurisdictional police station once every week till conclusion of trial.

10. On instruction, learned counsel for the Petitioner submits that the Petitioner is the first offender.

11. Before releasing the Petitioner on bail, learned Court in seisin shall verify the same. If it comes to fore that the Petitioner has any criminal antecedent of similar nature, this order shall stand recalled.

12. Accordingly, the BLAPL stands disposed of.
13. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

PKS

