

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8796 of 2022

Rafikul Alam

....

Petitioner

Mr. S.R.Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K.Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

22.12.2022

Order No.

02.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is accused in Spl. G.R. Case No.38 of 2022, pending on the file of the learned 1st A.D.J, Rourkela arising out of Plantsite P.S. No.216 of 2022, for commission of alleged offences under Sections 20 (b)(ii)(C) of NDPS Act.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned 1st Additional Sessions Judge-cum-Special Judge, Rourkela, by order dated 09.08.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted that the petitioner is in custody since 15.06.2022 and charge-sheet has been filed on 10.12.2022. The allegation is that the petitioner along with co-accused was in possession of contraband to the tune of 21 kg. 411 grams.

5. It is submitted by the learned counsel for the petitioner that individual seizures have been clubbed together so as to make it more than the commercial quantity for which bar under Section 37 of the NDPS Act can be invoked.

6. Hence, it is stated that in the facts situation of the case at hand, further continuance of the petitioner in custody is not warranted.

7. Learned counsel for the State opposes the prayer for bail relying on the bar contained under Section 37 of the NDPS Act and that such defence cannot be entertained during the course of bail.

8. Considering the manner of seizure of contraband, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

9. To allay the apprehension that the petitioner is not residing within the State of Odisha while releasing, the learned Court is called upon to fix suitable terms and additionally, it is directed that one of the sureties so fixed shall be immediate member of the family. In the event he is not able to given any property security to the satisfaction of the learned Court in seisin, he shall execute a P.R. bond.

10. Further it is directed that the petitioner shall appear before the police station of his own District once every week on such date and time to be specified by the learned Court in seisin till conclusion of trial and certification of such appearance shall be uploaded on the web site of the Court whose E.mail I.D. shall be mentioned in the order and the learned Court is requested to verify the criminal antecedent of the petitioner from the said police station

and if it comes to the fore that the petitioner is involved in **any offence**, this order shall stand recalled.

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

(V. NARASINGH)
Judge

Santoshi

