

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8969 of 2022

Kailash Bira

....

Petitioner

Mr. S.K. Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
24.11.2022

Order No.

03.

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 G.R. Case No.20 of 2022(N), pending in the file of learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur, arising out of Badabazar P.S. Case No.55 of 2022, for commission of alleged offences under Sections 20(b)(ii)(C)/25 of NDPS Act and is in custody since 19.03.2022.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur by order dated 04.08.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that in the meanwhile co-accused have been released on bail by this Court by order dated 28.09.2022 in BLAPL No.9136 of 2022 and

order dated 11.11.2022 in BLAPL No.8583 of 2022. Hence the petitioner seeks release on the ground of parity.

6. Learned counsel for the State on instructions submits that the petitioner is not similarly circumstanced in as much the vehicle in question from which the contraband (Ganja) was seized belongs to the petitioner and in view of the bar under Section 37 of the NDPS Act, petitioner ought not to be released on bail.

7. Considering the release of the co-accused and filing of the charge sheet on 12.09.2022 and the age of the petitioner and he is the first offender as stated, 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.

8. While enlarging the petitioner on bail the learned Court below shall verify assertions regarding his criminal proclivity. If it comes to the fore that the petitioner has criminal antecedent of any nature, this order shall stand recalled without any further reference to this Court.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge