

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9181 of 2022

Basanta Behera @ Kamala

Petitioner

Mr. A.K. Biswal, Advocate

-versus-

State of Odisha

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

14.10.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioners and learned counsel for the State.
3. The petitioner is an accused in connection with C.T. Case No.332 of 2022 pending on the file of learned S.D.J.M., Nilgiri arising out of Berhampur P.S. Case no.74 of 2022, for alleged commission of offences under Sections 420/406/120-B/294/506 of IPC.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Asst. Sessions Judge, Nilgiri by order dated 15.09.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that he is in custody since 01.07.2022 and admittedly charge sheet

having been filed on 28.08.2022, further continuance of the petitioner in custody is not warranted.

6. Learned counsel for the State opposes the prayer for bail inter alia on the ground that the investigation is kept open under Section 173(8) of Cr.P.C. and the major portion of the amount is yet to be recovered.

7. It is borne out from the order of rejection that number of ATM cards were seized from the possession of the petitioner in terms of Section 27 of the Evidence Act and hence prima facie there is force in the submission of the learned counsel for the petitioner that there has been substantial progress of the investigation qua the petitioner. Hence, this Court is persuaded to hold that further continuance of the petitioner is unwarranted.

8. It is also stated at the bar that the co-accused Kamalakant Mahakud and Umakanta are the master mind and the petitioner was working at the behest of the said two co-accused persons.

9. Be that as it may, taking into account the nature of allegations and substantial progress in investigation relating to the complicity of the petitioner and considering the statement of the learned counsel for the petitioner that he is the first offender, 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.

10. While enlarging the petitioner on bail, the learned court below shall examine as to whether the petitioner is the first offender, as stated. If it comes to the fore that the petitioner has any criminal antecedent, this order shall stand recalled.

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

(V. NARASINGH)
Judge

Santoshi

