

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9236 of 2022

Sarbeswar Swain

....

Petitioner

Mr. L. Maha, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

13.10.2022

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.273 of 2022, pending in the Court of learned JMFC, Daspalla arising out of Gania P.S. Case No.59 of 2022, for alleged commission of offences under Sections 294/394/34 of IPC and is in custody since 23.07.2022.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge, Nayagarh by order dated 02.09.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that some of the co-accused have already been released on bail by the Court below and hence there is no justification for the petitioner to

be incarcerated and since he is the first offender, his bail application is liable to be allowed.

6. Learned counsel for the State, on instruction, submits that the petitioner is not similarly circumstanced with the other co-accused in as much as the present petitioner was identified in the T.I. parade and there is recovery at his instance which is the distinguishable feature.

7. Taking note of the submission 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.

8. While enlarging the petitioner on bail the learned court below shall verify assertion regarding his criminal proclivity. If it comes to the fore that the petitioner has any criminal antecedent this order shall stand recalled.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge