

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9289 of 2022

Birupakhya Bindhani

....

Petitioner

Mr. S.R. Mulia, Advocate

-versus-

Union of India (NCB)

....

Opposite Party

Mr. G. Mohanty, Sr. Panel Counsel

CORAM: JUSTICE V. NARASINGH

ORDER
29.09.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard Mr. S.R. Mulia, learned counsel for the petitioner and Mr. G. Mohanty, learned Senior Panel counsel for the Union of India (NCB).
3. The petitioner is an accused in connection with NCB Crime No-05 of 2022, corresponding to T.R. No.349 of 2022, pending before the learned Sessions Judge, Bhubaneswar, for offences under Sections 20(b)(ii)(C)/28/29 of NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge, Khurda at Bhubaneswar, by order dated 15.09.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner draws the attention of this Court to paragraph-11 of the search cum seizure list dated 07.09.2022, which indicates that the Ganja seized from the present petitioner is to the tune of 6Kgs.

6. It is submitted that since the same is less than the commercial quantity the Bar under Section 37 of the NDPS Act is not attracted and since the petitioner is in custody from 07.09.2022, it is submitted that the petitioner may be released.

7. Learned Senior Panel Counsel opposes the prayer for bail inter alia on the ground that there are materials on record to show that the petitioner is a habitual offender and therefore he ought not to be released on bail.

8. Considering the quantum of contraband recovered from the possession of the petitioner as stated in the search cum seizure list referred to hereinabove, 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.

9. Additionally, it is directed that while releasing the petitioner on bail, the learned Court shall verify the criminal antecedent of the petitioner, if it comes to the petitioner that the petitioner has any criminal antecedent, this order shall stand recalled without any further reference to this Court.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha