

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9323 of 2022

Himansu Sekhar Meher

....

Petitioner

Mrs. D. Nanda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

13.12.2022

Order No.

02.

1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in connection with T.R Case No.48/95 of 2018-21, pending in the Court of the learned Sessions Judge-cum-Special Judge, Rairakhol, arising out of Rairakhol P.S. Case No.190 of 2018, for alleged commission of the offence alleged under Section 20(b)(ii)C of the N.D.P.S. Act.

3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Addl. Sessions Judge-cum-Judge, Special Court, Rairakhol, by order dated 07.09.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted that the Petitioner is in custody since 28.10.2018 and all the co-accused have been released on bail by this Court. The orders are on record. Hence, his further continuance in custody is not warranted.

5. Learned counsel for the State opposes the prayer for bail stating, inter alia, that question of parity does not come into play in view of the bar contained in Section 37 of the N.D.P.S Act.
6. Learned counsel for the Petitioner, on instruction, submits that out of 16 cited witnesses, 9 have been examined out of which one is official witness i.e. Executive Magistrate who is not able to identify the Petitioner and rest 8 independent witnesses have resiled from their earlier statement.
7. It is apt to note that this Court on two occasions had released the Petitioner on bail for a period of 90 days and the Petitioner after expiry of the interim bail period has surrendered.
8. Taking into account the release of the co-accused and the independent witnesses not having supported the prosecution and the conduct of the Petitioner who did not misuse the trust reposed in him, 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 so as ensure his presence on each date of trial.
9. The BLAPL thus stands disposed of.
10. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge

PKS