

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10099 of 2022

***Abdul Pharit Khan @ Abdul
Farid Khan***

Petitioner

Mr. A.R. Panda, Advocate

-versus-

State of Odisha

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

**ORDER
02.11.2022**

Order No.

01.

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 Special Case No.258 of 2021, pending before the learned Sessions Judge-cum-Special Judge, Balasore, arising out of Basta P.S. Case No.281 of 2021, for alleged commission of offences under Section 21(b)/29 of the NDPS Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge, Balasore, by order dated 11.10.2022 in the aforementioned case, the present BLAPL has been filed.
5. Perused the order of rejection.

6. Learned counsel for the petitioner submitted that the petitioner has been implicated on the basis of the statement of the co-accused Ajhar @ Saitan @ Sk. Ajaruddin.

7. It is also stated by the learned counsel for the petitioner that since the co-accused has released on bail by this Court by order dated 18.01.2022 in BLAPL No.9747 of 2021, further continuance of the petitioner in custody is unwarranted.

8. Learned counsel for the State opposes the prayer for bail inter alia in view of the stipulation contained in Section 37 of the NDPS Act, question of parity cannot be entertained, more so when the contraband is beyond than the commercial quantity.

9. Considering that the basis of implication is on account of co-accused statement, in view of the law laid down in the case of ***Tofan Singh vs. State of Tamil Nadu***, reported in ***(2020) 80 OCR (SC)-641***, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha