

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10117 of 2022

Chandrabati Behera

....

Petitioner

Mr. P.K. Sahoo, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
14.12.2022

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 C.T. (Spl.) NDPS Case No.13 of 2022, pending in the Court of the learned Additional Sessions Judge, Kamakhyanagar, arising out of PR No.520 of 2022-23 of EI & EB, Unit-II (ND) Sambalpur, for alleged commission of offences under Section 21(b) of NDPS Act.
3. Being aggrieved by the rejection of her application for bail U/s.439 Cr.P.C. by the learned Judge Special Court, Kamakhyanagar, by order dated 11.10.2022 in the aforementioned case, the present BLAPL has been filed.
4. Perused the order of rejection.
5. Learned counsel for the petitioner relying on form C-2, the P.R. submitted by the Excise Department that the contraband seized is to the tune of 35gms of Heroin.
6. It is stated that since the quantity is less than the commercial quantity of 250gms, the bar under Section 37 of the

NDPS Act is not attracted and hence the petitioner, who is a lady of 63 years may be released on bail.

7. Learned counsel for the State though does not dispute the quantity as stated in form C-2, submits that during the currency of investigation, it is not possible to come to any finding regarding the quantity involved.

8. Learned counsel for the petitioner, on instruction, submits that the petitioner does not have any criminal antecedents of similar nature.

9. Considering the same and taking note of the first proviso to Section 437(1) of Cr.P.C., this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

10. While releasing the petitioner on bail, the learned Court below shall verify assertion regarding criminal antecedents of similar nature. If it comes to the fore that the petitioner has such criminal antecedent, this order shall stand recalled.

11. Additionally it is directed that the petitioner shall appear before the jurisdictional police station once every week on such date and time to be fixed by the learned Court in seisin till conclusion of trial and while doing so, the learned Court be alive to the fact that the petitioner is a lady aged about 63 years.

12. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha