

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10121 of 2022

Dilu Nayak

....

Petitioner

Mr. T.K. Mohanty, 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 T.R. Case No.387 of 2022, pending before the Court of learned District & Sessions Judge, Bhubaneswar, arising out of Capital P.S. Case No.520 of 2022, for commission of alleged offences under Section 21(b) of NDPS Act.
3. 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 30.09.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted by the learned counsel that the petitioner is in custody since 17.09.2022 for allegedly possessing contraband (brown sugar) to the tune of 13gms.

5. It is submitted that though the brown sugar seized from the petitioner is to the tune of 6.5gms but the seizure has been clubbed to make it 13gms.

6. It is further stated that in the meanwhile charge-sheet has been filed on 15.11.2022 and it is stated that the co-accused has been released on bail by this Court by order dated 30.11.2022 in BLAPL No.10002 of 2022. Hence, further continuance of the petitioner in custody is unwarranted.

7. Learned counsel for the State opposes the prayer for bail.

8. Keeping in view that even if the entire prosecution case is accepted at its face value, the brown sugar i.e. 13gms is less than the commercial quantity as stipulated and filing of final form, 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. While releasing the petitioner on bail, the learned Court below shall verify assertion regarding criminal antecedent of similar nature. If it comes to the fore that the petitioner has such criminal antecedent, this order shall stand recalled.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha