

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10209 of 2022

Chanduri Nayak and another ***Petitioners***

Mr. A.K. Karmi, Advocate

-versus-

State of Odisha ***Opposite Party***

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
07.12.2022

Order No.

02.

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

2. The petitioners are accused in T.R. Case No.374 of 2022, pending in the file of learned District & Sessions Judge, Khurda, At- Bhubaneswar, arising out of Nayapalli P.S. Case No.616 of 2022, for commission of alleged offences under Sections 20(b)(ii)(C) of the NDPS Act and is in custody since 16.09.2022.

3. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned District and Sessions Judge, Khurda at-Bhubaneswar by order dated 22.09.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted that the petitioners are in custody since 16.09.2022 and the accusation of possessing contraband (ganja) to the tune of 21.625 kgs.

5. It is submitted by the learned counsel for the petitioner on instruction relying on the physically handicapped certificate of the husband of the Petitioner No.1 and father of Petitioner No.2 that he

suffers from disability to the tune of 100% for which he is completely dependant on the Petitioner No.1- wife and Petitioner No.2- son, hence on the humanitarian ground he seeks release.

6. Learned counsel for the State opposes the prayer for bail during the currency of investigation and that the contraband is more than commercial quantity in view of the bar contained in Section 37 of the NDPS Act, petitioner ought not to be released on bail.

7. It is submitted by the learned counsel for the petitioners that the manner in which the seizure has been made the question of wrong weighment cannot be ruled out so as attract the provisions of bar contained under Section 37 of the NDPS Act.

8. Considering the health condition of the father of the Petitioner No.2 and husband of Petitioner No.1 and keeping in view that there has been substantial progress in the investigation, this Court directs the petitioners 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 the both the petitioners shall appear before the Investigating Officer once every week on such date and time to be fixed by the learned Court in seisin. While fixing such terms the learned Court in seisin is requested to keep in mind that Petitioner No.1 is a lady and Petitioner No.2 is a young boy of 18 years.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge