

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10326 of 2022

Raisingh Kure

....

Petitioner

Mr. S.S. Ray, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, 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 accused in connection with T.R Case No.51 of 2022 pending on the file of learned Addl. Sessions Judge-cum-Special Judge, Gunupur, arising out of Muniguda P.S. Case No.66 of 2022, for commission of the offence alleged under Sections 20(b)(ii)(C)/29 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-Special Judge, Gunupur by order dated 15.10.2022 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 28.03.2022 and as charge sheet has been filed on 21.09.2022, his further continuance in custody is not warranted.

5. Learned counsel for the Petitioner further submits that the basis of implication of the Petitioner was on account of co-accused statement Vinay Kumar Yadav who stated to be the driver of the vehicle from which the contraband (Ganja) to the tune of 66 K.Gs was seized and Ravi Tiwari was the occupant of the said vehicle. It is stated, on instruction, that the Petitioner does not have any criminal antecedent. Hence, he may be released on bail.

6. Learned counsel for the State opposes the prayer for bail, in view of the bar contained in Section 37 of the N.D.P.S Act and relying on the order dated 20.10.2022 of this Court rejecting BLAPL No.5369 of 2022 filed by co-accused Ravi Tiwari.

7. On perusal of the materials on record, prima facie it comes to the fore that the Petitioner was not at the site and the basis of his implication is on account of the co-accused statement as submitted and noted above.

8. The bail application of Ravi Tiwari has since been rejected and Vinay Kumar Yadav, who was the driver of the vehicle, is not the Petitioner before this Court. Those two accused evidently have greater complicity.

9. Taking note of the same and keeping in view the age of the Petitioner, 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.

10. Since the Petitioner does not reside within the State of Odisha, additionally it is directed that one of the sureties who shall be immediate family member of the Petitioner shall execute P.R bond.

11. Learned counsel for the Petitioner submits that he is not in a position to apprise this Court about the criminal antecedent of the Petitioner.

12. While releasing the Petitioner on bail, learned Court below shall verify assertion regarding **criminal antecedent of similar nature**. If the Petitioner has any such criminal antecedent, this order shall stand recalled.

13. The BLAPL thus stands disposed of.

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

PKS

