

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10567 of 2022

Anita Swain

....

Petitioner

Mr. A.R. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

17.11.2022

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 Special Case No.62 of 2022, pending in the file of learned Sessions Judge-cum-Special Judge, Balasore, arising out of Balasore Excise P.R. Case No.171 of 2022, offence under Sections 20(b)(ii)C/8(C) of NDPS Act and is in custody since 17.03.2022.
4. Being aggrieved by the rejection of her application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Balasore by order dated 10.10.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner places on record the final prosecution report (Form No.C-5) and submits that the same was submitted on 12.09.2022 and as the petitioner is in custody since 17.03.2022, his further continuance of the petitioner in custody is not warranted.
6. The Form No.C-5 is kept on record.

7. It is apt to note here that the observation in the impugned order of rejection regarding the investigation of the case being under progress is a patent error of record.

8. Learned counsel for the petitioner relies on the order passed by this Court of the co-accused dated 29.09.2022 in BLAPL No.4763 of 2022 and states that the petitioner being a lady, her case is to be considered liberally in view of the provisions as under the first Proviso to Section 437(1) of Cr.P.C.

9. Learned counsel for the State opposes the prayer for bail relying on Section 37 of the NDPS Act and also submits that prima facie the petitioner is not similarly circumstanced.

10. Considering the release of the co-accused and that the petitioner is a lady, 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.

11. Additionally it is directed that the petitioner shall appear before the Excise Official on such date and time to be fixed by the learned Court in seisin over the matter till the conclusion of trial and while fixing such terms, the learned Court shall taken into account that the petitioner is a lady.

12. While enlarging the petitioner on bail the learned court below shall verify assertion regarding her criminal proclivity. If it comes to the fore that the petitioner has any criminal antecedent, this order shall stand recalled.

13. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge