

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10664 of 2022

Mangal Mundry

....

Petitioner

Ms. A. Hota, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

22.11.2022

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 C.T. (Spl.) NDPS Case No.02 of 2021, pending in the file of learned Additional Special Judge, Talcher, arising out of Pallahara P.S. Case No.55 of 2021, for commission of alleged offences under Sections 18(b) of the NDPS Act and is in custody since 31.10.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Special Judge, Civil Court, Talcher by order dated 17.11.2021 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that the petitioner is in custody since 31.10.2021 and on instructions, she submits that charge sheet has already been filed on 29.12.2021, inter alia, under Section 18(b) of the NDPS Act. Hence, further continuance of the petitioner in custody is not warranted.

6. Learned counsel for the State opposes the prayer for bail, inter alia, on the ground that the plantation is more than the commercial quantity. Hence, the petitioner ought not to be released on bail, merely because charge sheet has been filed.
7. It is apt to note here that the legislature in its wisdom while enacting the bar under Section 37 of the NDPS Act had consciously did not include the offences alleged to have been committed under Section 18(b) of the NDPS Act.
8. Taking note of the same and considering that the petitioner is in custody for more than a year and non-commencement of trial and keeping in view the mandate of the apex Court in the case of ***Hussainara Khatoon & Ors vs. State of Bihar*** reported in (1980) 1 SCC 81, this Court directs petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter so as to ensure his presence on each date of trial.
9. Accordingly, the BLAPL stands disposed of.
10. Learned Registrar (Judicial) is called upon to caution the concerned Superintendent and the Dealing Assistant of the Section regarding the non-description of the offence on the brief. The matter be dealt with on the Administrative side.
11. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge