

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10674 of 2022

Mitu Behera

....

Petitioner

Mr. B. Maharatha, 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 Special G.R. Case No.97 of 2022 pending on the file of learned Sessions Judge-cum-Special Judge, Puri, arising out of Baselisahi P.S. Case No.165 of 2022, for commission of alleged offence under Section 21(c)/29 of the N.D.P.S Act and is in custody since 21.07.2022.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C by the learned Special Judge, Puri by order dated 30.09.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the Petitioner, on the basis of the recitals in the FIR, submits that since there is no seizure from the Petitioner, his further continuance in custody is not warranted.

6. Learned counsel for the State referring to the recitals in the FIR and the order of rejection refutes such submission and states that the Petitioner was one of the accused who is apprehended at the spot and at this stage, it cannot be said that there has been no recovery as alleged.

7. Since the investigation is continuing and the quantity of contraband (brown sugar) seized is to the tune of 267 grams admittedly more than the commercial quantity and the consideration by the learned Court in seisin was during currency of investigation, this Court is **not inclined** to entertain this bail application at this stage.

8. It shall be open to the Petitioner to move the learned Court in seisin over the matter after filing of the final form and the same shall be considered on its own merits without being influenced by the earlier rejection or the order passed by this Court.

9. Accordingly, the BLAPL stands disposed of.

10. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

PKS