

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10781 of 2022

Sudam Kanhar

....

Petitioner

Mr. S.R. Mohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
22.12.2022

Order No.

02.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in 2(a) C.C. No.12 of 2021 (NDPS Act), pending on the file of the learned Sessions Judge-cum-Special Judge, Boudh arising out of Excise Station P.R. Case No.13 of 2021-2022, for commission of alleged offences under Sections 20(b)(ii)(c) of the NDPS Act.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge, Boudh, by order dated 21.10.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted that the petitioner is in custody since 04.10.2022 and as final P.R. (Form No. C-5) has been submitted, further continuance of the petitioner in custody is not warranted, keeping in view the quantity of contraband seized.
5. Copy of Form No.C-5 submitted by the learned counsel for the petitioner is taken on record.

6. It is submitted that the date of occurrence is on 13.07.2021 and the allegations is that seeing the raiding party, the petitioner left the bike and ran away and on the basis of investigation he was taken into custody.
7. It is submitted that taking into account the quantity of contraband, wrong weighment cannot be ruled out.
8. Learned counsel for the State opposes the prayer for bail relying on the bar under Section 37 of the NDPS Act and submits that defence of wrong weighment, as stated cannot be taken into consideration at this stage and prima facie from the conduct of the petitioner and the seizure of the bike, his complicity is well established.
9. Taking into account the quantity of contraband seized and that the petitioner is the first offender, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.
10. While releasing the petitioner on bail, learned Court below shall verify assertion regarding the **criminal antecedent of similar nature**. If the petitioner has any such criminal antecedent, this order shall stand recalled.
11. Accordingly, the BLAPL stands disposed of.
12. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Santoshi