

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10790 of 2022

D. Saraswati Patra

....

Petitioner

Mr. D. Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
24.11.2022

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 2(a)CC No.99 of 2022 (N), pending on the file of learned Sessions Judge-cum-Special Judge, Ganjam, Berhampur, arising out of Berhampur P.R. No.732 of 2022-23 for commission of offence under Section 20(b)(ii)c of the N.D.P.S. Act.
4. Being aggrieved by the rejection of her application for bail U/s.439 Cr.P.C. by the learned Special Judge, Berhampur by order dated 26.10.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel that the Petitioner is in custody from 13.10.2022 and since final P.R. has been submitted on 09.11.2022, which is taken on record being submitted by the learned counsel for the Petitioner, her further continuance in custody is not warranted.

6. Learned counsel for the State opposes the prayer, inter alia, referring to the bar contained in Section 37 of the N.D.P.S Act and that the Petitioner has been cited as a sole accused.

7. From the noted feature, this Court finds force on the submission of the learned counsel for the Petitioner and as a lady she had no control over the materials which had been kept in the house and there is nothing on record, as submitted by the learned counsel for the Petitioner that she had any inkling that the same is contraband and that too beyond commercial quantity.

8. Considering the plausible explanation as given by the learned counsel for the Petitioner and keeping in view the quantity and that the Petitioner is a lady, in the light of the provisions contained in the first proviso to Section 437(1), Cr.P.C, this Court directs the Petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS