

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10922 of 2022

Sadhia @ Rakesh Jena

....

Petitioner

Mr. R.C. Maharana, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
30.11.2022

Order No.

01.

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner is an accused in G.R.(Spl.) Case No.26 of 2022, pending in the file of learned Sessions Judge-cum-Special Judge, Cuttack, arising out of Lalbag P.S. Case No.232 of 2022, for commission of alleged offences under Sections 20(b)(ii)B of the NDPS Act and is in custody since 30.09.2022.

3. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Sessions Judge-cum-special Judge, Cuttack by order dated 31.10.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted by the learned counsel that the contraband (Ganja) seized from the exclusive possession of the Petitioner was 1.5 Kg. and since the Petitioner is in custody since 30.09.2022, his further continuance in custody is not warranted.

5. Learned counsel for the State on the basis of order of rejection submits that total quantity is 3 Kg. and dissection vis-à-vis the quantity is not permissible.
6. Learned counsel for the State does not dispute the total quantity is less than the commercial quantity. Hence, the bar contained in Section 37 of the N.D.P.S. Act is not attracted.
7. Considering the period of custody and the contraband seized being less than the commercial quantity as prescribed, this Court directs the Petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.
8. Additionally, it is directed that the Petitioner shall appear before the jurisdictional police station of the Court in seisin over the matter once every week till conclusion of trial. The first date and time to be fixed by the learned Court in seisin over the matter. Certification of such appearance shall be submitted to the learned Court in seisin over the matter.
9. While releasing on bail, learned Court in seisin shall verify the criminal antecedent of similar nature. If the Petitioner has such criminal antecedent, this order shall stand recalled.
10. The BLAPL thus stands disposed of.
11. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge