

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 11137 of 2022

Turi Munda and another

....

Petitioners

Mr. P.S. Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

14.12.2022

Order No.

01.

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

2. The petitioners are accused in Special Case No.38 of 2022, pending in the file of learned Special Judge, Keonjhar, arising out of Harichandanpur P.S. Case No.143 of 2022, for commission of alleged offences under Sections 18(b) of the NDPS Act.

3. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Special Judge, Keonjhar by order dated 08.08.2022 in the aforementioned case, the present BLAPL has been filed.

4. It is submitted petitioners are in custody since 19.07.2022 and charge sheet has already been filed on 20.10.2022.

5. On instruction, learned counsel for the petitioner submits relying on the property seizure memo which is on record at page 14 that the contraband (opium) weighing about 9 kg 940 gms was seized from the exclusive possession of co-accused Johan Hassa

and merely because the petitioners were present in the vehicle, they have implicated as co-accused.

6. Learned counsel for the State opposes the prayer for bail, relying on the order of rejection that in view of the bar under Section 37 of the NDPS Act plea of false implication cannot be taken into account at this stage.

7. Taking into account the specific seizure of the contraband from the co-accused Johan Hassa, this Court directs the petitioners to be released on bail on such terms to be fixed by the learned Court in seisin over the matter.

8. Additionally, to address the legitimate concern express by the learned counsel for the State regarding appearance of the petitioners at the trial, as they do not reside within the State, this Court directs that one of the immediate member of the family of each of the petitioners shall execute a P.R. bond and petitioners shall appear before the jurisdictional police station once every week on such date and time be fixed by the learned Court in seisin till conclusion of trial.

9 While enlarging the petitioners on bail, the learned Court below shall verify assertion regarding criminal antecedent of the petitioners. If it comes to the fore that the petitioners have any criminal antecedent of similar nature, this order shall stand recalled.

10. Accordingly, the BLAPL stands disposed of.

11. Urgent certified copy of this order be granted as per the rules.

(V. NARASINGH)
Judge