

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No. 9367 OF 2020

Sahanawana Ali & another

..... *Petitioners*
Mr. R.L.Pattnaik, Adv.for
Petitioner No.2
Mr. J.Swarupsamal, Adv. for
Petitioner No.1

-versus-

State of Odisha

..... *Opposite Parties*
Mr. K.K.Gaya,ASC

CORAM:
JUSTICE V. NARASINGH

ORDER
10.05.2022

Order No.
05.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the petitioners and learned Addl. Standing Counsel for the State.
3. Learned counsel for petitioner No.1 submits that description of petitioner No. 1 has been wrongly stated in the bail application as “Sahanawana Ali”, whereas his name is “Sahanawaza Ali” as seen from the order of learned Sessions Judge-cum-Special Judge, Malkangiri.
4. Learned counsel for the petitioner No.1 is permitted to correct the name of the petitioner No.1 in Court.
5. The Registry is called upon to reflect the correct name of petitioner No.1 in the file.

6. The Petitioners are accused in connection with T.R.Case No.145 of 2020 arising out of Orkel P.S. Case No. 198 of 2020 on the file of learned Sessions Judge-cum-Special Judge, Malkangiri registered for the alleged commission of offence under Section 20(b)(ii)(c) of the NDPS Act.

7. Being aggrieved by the rejection of his application for bail U/s 439 Cr.P.C. by the learned Sessions Judge-cum-Special Judge, Malkangiri, by order dated 17.11.2020, the present BLAPL has been filed.

8. Learned counsel for the petitioners submits that though the petitioners are in custody since 15.11.2020, the trial has not commenced and it is submitted that further pretrial detention of the petitioners is unwarranted.

9. Learned counsel for the State submits that there are materials to implicate the petitioners and there is no mitigating circumstance and in view of the bar contained under Section 37 of the NDPS Act, the petitioners are not entitled to be released on bail merely because of proclamation of the trial.

10. Considering the period of detention and keeping in view the law laid down by the Apex Court in the case of **Hussainara Khatoon & Others Vrs. State of Bihar**, reported in 1979 AIR 1369, 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 including the condition that the petitioners shall submit cash security to the tune of Rs.1,00,000/-(Rupees one lakh) each and petitioner No.1 shall appear before the jurisdictional Police

Station once in every month and petitioner No.2 shall report to the jurisdictional Police Station once in every 15 days.

11. It is needless to state that violation of the stipulation relating to appearance before the jurisdictional Police Station shall entail cancellation in accordance with law without any further reference to this Court.

12. The BLAPL is accordingly disposed of.

13. Issue urgent certified copy of this order as per Rules.

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