

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10307 of 2021

Yosabanta Sahani

...

Petitioner

Mr. A.R. Panda, Advocate

- Versus -

State of Odisha

...

Opposite Party

Mr. P. Tripathy,

Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

20.01.2022

Order No.

1.

1. This matter is taken up through virtual mode.
2. Heard learned counsel for the petitioner and learned Addl. Standing Counsel for the State.
3. The petitioner is in custody since 12.11.2021 in connection with Phiringia P.S. Case No.37 of 2021 corresponding to C.T. Case No.28 of 2021 pending in the Court of learned Sessions Judge-cum-Special Judge, Phulbani for the alleged commission of offence under Sections 20(b)(ii)C/25/29 of NDPS Act.
4. It is submitted that nothing was seized from the exclusive and conscious possession of the petitioner and he has been implicated in the case entirely on the basis of the statement of the co-accused persons, namely, Sankar Digal and Sunil Nayak, both of whom were apprehended by the police. In course of investigation, both of them are said to have disclosed that they had procured contraband from the present petitioner.
5. On query, learned Addl. Standing Counsel is unable to satisfy the Court as to if any material independent of the co-

accused statement is available on record to show the complicity of the petitioner. It is well settled that the statement of the co-accused is not admissible as per Section 67 of the NDPS Act (*Tofan Singh vs. State of Tamil Nadu*, reported in (2020) 80 OCR (SC) 641)

6. Having regard to the submissions as above, the period of detention already undergone and the fact that there is no specific material against the petitioner except the statement of the co-accused persons, I am inclined to allow the prayer for bail. Let the petitioner be released on bail on such terms and conditions as the court in seisin over the matter may deem fit and proper to impose including the condition that he shall personally appear before the trial Court on each date of posting of the case without fail.

7. BLAPL is accordingly disposed of.

8. As the restrictions due to resurgence of Covid-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No. 4587, dated 25th March, 2020, modified by Notice No. 4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos. 514 and 515 dated 7th January, 2022.

(Sashikanta Mishra)
Judge