

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11400 of 2022

Sudhir Raipeli

....

Petitioner

Mr. A.R. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
23.12.2022

Order No.

01.

1. Heard learned counsel for the Petitioner and learned counsel for the State.
2. The Petitioner is accused in connection with T.R. Case No.19 of 2021, pending in the Court of learned Additional Sessions Judge-cum-Special Judge, Koraput, arising out of Sunabeda P.S. Case No.20 of 2021, for commission of offences under Section 20(b)(ii)(C) of N.D.P.S. Act.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge-cum-Special Judge, Koraput, by order dated 10.11.2022 in the aforementioned case, the present BLAPL has been filed.
4. Learned counsel for the Petitioner submits that one co-accused Sajid Badabura has since been released on bail by order dated 21.09.2022 in BLAPL No.5244 of 2022.
5. It is stated that the co-accused has already been released on bail by order dated 20.10.2022 in BLAPL No.9476 of 2022 (Amrit Khora, driver of Eicher vehicle bearing registration No.OD-02A-3954) in which

the present Petitioner was the occupant from which contraband to the tune of 117 Kgs was recovered.

6. It is further stated that another co-accused Dilip Kumar Bhoi has been released on bail by order dated 12.04.2022 by this Court in BLAPL No.3193 of 2021. Hence, he seeks release on bail on the ground of parity.

7. Learned counsel for the State opposes the prayer for bail, inter alia, on the ground that earlier bail application of the Petitioner was dismissed for non-prosecution by order dated 22.06.2022 and there being no change in circumstance, the present bail application is liable to be rejected and also in view of the bar contained in Section 37 of the N.D.P.S Act.

8. On instruction the learned counsel for the Petitioner submits that the Petitioner is the first offender and hence, a liberal view may be taken.

9. Considering the release of the co-accused and that in the meanwhile trial has not commenced, keeping in view the dictum of the apex Court in the in case of **Hussainara Khatoon & others vrs. State of Bihar**, reported in (1980) 1 SCC 81, wherein speedy trial has been treated to be a facet of Article 21 of the Constitution, this Court directs the Petitioner to be released on bail. Learned Court in seisin over the matter shall fix the terms so as to ensure the presence of the petitioner on each date of trial.

10. To allay the legitimate apprehension of the learned counsel for the State, this Court directs that the Petitioner shall appear before the jurisdictional police station once every week till conclusion of trial.

11. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge