

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11725 of 2022

B. Binaya Basu Kumar Patro

Petitioner

Mr. J. Sahoo, 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 an accused in G.R. Case No.77 of 2022 pending on the file of learned Sessions Judge-cum-Special Judge, Paralakhemundi, Gajapati arising out of Adava P.S. Case No.89 of 2022, for commission of offence under Sections 20(b)(ii)(C)/25/29 of the 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 Sessions Judge-cum-Special Judge, Gajapati by order dated 14.11.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted by the learned counsel that the Petitioner is in custody since 25.07.2022 and charge sheet has been filed on 27.10.2022 and the contraband (Ganja) seized is 63 Kg.

5. It is further submitted that the Petitioner is similarly circumstanced with the co-accused, namely, Jaga @ Jagabandhu Nayak, who has been released on bail by order dated 21.12.2022 in BLAPL No.8602 of 2022. Hence, his further continuance in custody is not warranted.

6. Learned counsel for the State opposes the prayer for bail relying on the bar contained in Section 37 of the N.D.P.S Act.

7. Considering the age of the Petitioner and release of the co-accused and he being the first offender, as stated, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned court in seisin over the matter.

8. Before releasing the Petitioner on bail, learned Court below shall verify assertion regarding **criminal antecedent of similar nature**. If it comes to fore that the Petitioner has such criminal antecedent, this order shall stand recalled.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS