

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11762 of 2022

Prakash Nayak @ Muna

....

Petitioner

Mrs. K. Patra, 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 T.R. Case No.51 of 2022, pending on the file of learned 1st Addl. Sessions Judge-cum-Special Judge under NDPS Act, Khurda, arising out of Khorda Model P.S. Case No.249 of 2022, for commission of the alleged offence under Sections 21(c)/29 of the NDPS Act.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Special Judge under NDPS Act, Khurda by order dated 19.11.2022 in the aforementioned case, the present BLAPL has been filed.
4. Learned counsel for the Petitioner submits that the brown sugar weighing 260 grams was seized from the possession of the co-accused Suresh Kumar Sahoo @ Sura who has since been released on bail by order dated 24.09.2022 in BLAPL No.5236 of 2022. Hence, he seeks release on the ground of parity.

5. Learned counsel for the State opposes the prayer and submits that as the facts were not placed in proper perspective, this Court allowed the bail application of the co-accused. Hence, that cannot be treated as a ground to release the Petitioner as prima facie the bar under Section 37 of the N.D.P.S. Act is attracted.

6. Considering the release of the co-accused, as noted, this Court directs the Petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.

7. Before releasing the Petitioner on bail, learned Court below shall verify assertion regarding **criminal antecedent of similar nature**. If the Petitioner has any such criminal antecedent, this order shall stand recalled.

8. The BLAPL thus stands disposed of.

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

(V. NARASINGH)
Judge

PKS