

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7945 of 2023

Isan Abi

....

Petitioner

Mr. S.K Parida, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

31.07.2023

Order No.

01.

1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in 2(a)CC Case No. 63 of 2023 pending on the file of learned Sessions Judge-cum-Special Judge, Cuttack, arising out of P.R. No. 60/2022-23, Inspector of Excise, Sadar Range for commission of the offence under Sections 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 Sessions Judge-cum-Special Judge, Cuttack by order dated 03.05.2023 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 23.03.2023 for allegedly possessing contraband to the tune of 21kgs (ganja).

5. It is further submitted in the case at hand that wrong weighment cannot be ruled out so as to bring it within the rigors of Section 37 of the N.D.P.S Act.

6. Learned counsel for the Petitioner relies on the order in respect of the co-accused Maman Sarkar, who has since been released on bail by this Court by order dated 30.06.2023 in BLAPL No. 5588 of 2023 and seeks release inter alia on the ground of parity.

7. 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 and submits that defence plea as advanced cannot be taken into account at this stage.

8. It is further submitted by the learned counsel for the State that since the petitioner does not reside within the territorial jurisdiction of the learned Court in seisin, it would be difficult to ensure his presence during the trial.

9. Considering the nature of allegation, period of custody and the punishment prescribed, 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.

10. Additionally, it is directed that the Petitioner shall appear before the Investigating Officer once every month till submission of final form on such date and time to be fixed by the learned Court in seisin. Certification of such appearance shall be submitted to the learned Court in seisin.

11. It is further directed that in addition to the sureties so fixed, one surety shall be immediate member of the family, who shall execute a P.R. bond.

12. Before releasing the petitioner, learned Court in seisin is called upon to verify the criminal antecedent of the Petitioner from his parent police station i.e. P.S.-Hariharpada, Dist-Mursidabad, State-West Bengal. If it comes to the fore that the Petitioner **have any criminal antecedent**, this order shall stand recalled.

13. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Soumya



Signature Not Verified

Digitally Signed
Signed by: SOUMYA RANJAN SAMAL
Designation: Jr. Stenographer
Reason: Authentication
Location: High Court of Orissa
Date: 01-Aug-2023 18:50:26

