

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 104 of 2022

Lalita Muduli

.....

Petitioner

Ms. N. Afreen, Adv.

Vs.

State of Odisha

.....

Opposite party

Mr. S.S. Pradhan, A.G.A.

CORAM:

JUSTICE SAVITRI RATHO

ORDER

30.08.2022

Order No.

05.

This matter is taken up through hybrid mode.

2 Heard Ms. N. Afreen, learned counsel for the petitioner and Mr. S.S. Pradhan, learned Addl. Government Advocate for the State.

3. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner-Lalita Muduli in connection with Koraput Sadar P.S. Case No.52 of 2019 corresponding to T.R. Case No.45 of 2019 pending in the Court of learned Addl. Sessions Judge -cum- Special Judge, Koraput for commission of offence punishable under Section 302 of the IPC.

4. This is the second journey of the petitioner to this Court seeking bail. His earlier application BLAPL No.11170 of 2019 had been dismissed on 25.10.2021 directing the trial of the case to be expedited and granting liberty to the petitioner to move the trial Court afresh for bail after examination of the eye witnesses.

5. The prosecution allegation in brief is that the petitioner has stabbed his younger brother Udhab Muduli in the chest with a spear. This was after a quarrel over his having an extra bowl of rice.

6. As the learned trial Court vide letter dated 29.07.2022 had stated that after examination of two chargesheet witnesses the case was posted to 09.08.2022 and 10.08.2022 for evidence of the remaining chargesheet witnesses except the I.O., vide order dated 08.08.2022, a report had been called for from the learned trial Court regarding the witnesses who were to be examined in the week commencing 08.08.2022.

7. Letter dated 16.08.2022 of the learned Addl. Sessions Judge, Koraput has been received when it has been stated that after examination of prosecution witnesses namely Ajaya Muduli and Bhima Muduli on 28.07.2022, the case was posted to 09.08.2022/10.08.2022 for evidence of the remaining charge sheeted witnesses except the investigating officer and also summons have been issued on 30.07.2022 to procure the attendance of the remaining witnesses but on 09.08.2022, not a single witness has been examined and S/Rs of the charge sheeted witnesses have also not back. Now the case is posted to 05.09.2022/06.09.2022 and 07.09.2022 for trial and summons and messages have already been issued to the remaining charge sheeted witnesses except investigating officer.

8. Ms. Afreen, learned counsel for the petitioner submits that the petitioner is in custody since 08.06.2019 and two witnesses who have been examined in the case have not supported the prosecution case and on 09.08.2022 as witnesses did not appear, the trial is now posted to 5th, 6th and 7th September, 2022.

9. Mr. Pradhan, learned Addl. Government Advocate opposes the prayer for bail stating there are at least four more

eye witnesses who are to be examined and as they have made direct allegations against the petitioner, he should not be released on bail.

10. One thing which strikes me amiss is how the learned trial Court expected witnesses to be present on 9th and 10th September, 2022 when summons were issued to them only on 30.07.2022. But as the witnesses have again been summoned to be present on 5th, 6th and 7th September, 2022 for trial, I am not delving further into this aspect.

11. Considering the submissions of learned counsels for the parties and the report of the learned trial Court, the nature of accusation against the petitioner and the slow progress in the trial and period of his detention in custody, I am inclined to allow the prayer for bail.

12. Let the petitioner- Lalita Muduli be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, including the following conditions:-

(i) He will appear on 05.09.2022/06.09.2022 and 07.09.2022 and any other subsequent date the case is posted for trial, without fail.

(ii) He will not try to indulge the witnesses.

13. The BLAPL is accordingly disposed of.

14. Urgent certified copy of this order be granted on proper application.