

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.267 of 2022**

***Madan Durga @ Muna* .... *Petitioner***

Mr.S.N. Mishra-4, Advocate

*-versus-*

***State of Odisha* .... *Opp. Party***

*Mr.J.P. Patra,  
Addl. Standing Counsel*

**CORAM:  
JUSTICE S.K. SAHOO**

**ORDER  
11.03.2022**

**Order No.**

02. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with Jaipatna P.S. Case No.364 of 2020 corresponding to C.T. Case No.48 of 2021 pending in the Court of learned Additional Sessions Judge, Dharamgarh for offence punishable under section 395 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of learned Additional Sessions Judge, Dharamgarh, which was rejected on 10.12.2021.

Learned counsel for the petitioner submitted

that the petitioner Madan Durga @ Muna is in judicial custody since 15.12.2020 and his earlier bail application in BLAPL No.3425 of 2021 was rejected as per order dated 26.10.2021 on the ground that he was identified in the test identification parade. However, liberty was granted to the petitioner to renew the prayer for bail after examination of the identifying witnesses in the trial Court. Learned counsel further submitted that three identifying witnesses have already been examined as P.Ws.1, 2 and 3 and so far as P.Ws.1 and 2 are concerned, they have stated that the police has called them to the police station and also they had seen the accused persons prior to the test identification parade and P.W.3 has stated that he could not identify any of the accused persons as he could not recollect their faces. It is contended that in view of such evidence, the sanctity of test identification parade is lost and three of the co-accused persons, namely, Ahir Nag, Gajindra Bihari and Kumbhanath Jagat have been released on bail by this Court in BLAPL No.5403 of 2021, BLAPL No.5291 of 2021 and BLAPL No.10521 of 2021 respectively and since the petitioner is similarly situated, the bail application of the petitioner may be favourably reconsidered. Learned counsel for the petitioner has filed the bail order copies of the co-accused persons so also the deposition copies of the witnesses, which are taken

on record.

Learned counsel for the State opposed the prayer for bail.

Perused the evidence copies of the P.Ws.1, 2 and 3.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced so far in the trial Court, release of the co-accused persons on bail and further taking into account the period of detention of the petitioner in judicial custody, I am inclined to reconsider the prayer for bail and direct the petitioner to be released on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

PKSahoo

**( S.K. Sahoo )**  
**Judge**