

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.594 of 2021

Bipin Munda

....

Petitioner

Mr.A.Pradhan, Advocate

-versus-

State of Odisha

....

Opp. Party

*Mrs. Susamarani Sahoo,
Addl. Standing Counsel*

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

ORDER

05.08.2022

Order No.

12.

The 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. for grant of bail to the petitioner in connection with Naktideul P.S. Case No.25 of 2019 corresponding to S.T. Case No.15 of 2019 pending in the Court of learned Sessions Judge, Sambalpur for alleged commission of offences under sections 302, 201/34 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of Sessions Judge, Sambalpur which was rejected on 07.01.2021.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 10.03.2019 and when he approached this Court for bail in BLAPL No. 4883 of 2019, the

same was rejected as per order dated 11.09.2019 relying on the statement of two eye witnesses, namely, Dillip Behera and Gaya Bhoi and liberty was granted to the petitioner to renew the prayer for bail after examination of the aforesaid two eye witnesses. It is further submitted that in the meantime, the trial has commenced and the eye witness Dillip Behera has been examined as P.W.8, who has not supported the prosecution case and was declared hostile. Learned counsel further submitted that so far as the eye witness Gaya Bhoi is concerned, the said witness has not seen the first part of the assault on the deceased and in his statement he has stated that when he came to the spot, he found the deceased lying on the ground with bleeding injuries on his ear and then the deceased was shifted in a trolley of the tractor and while so proceeding in the tractor, on the way the petitioner assaulted the deceased on the head in the trolley of the tractor itself. Learned counsel further submitted that the deceased has sustained number of injuries on different parts of the body including one incised wound on the face and the cause of death has been opined to be asphyxia due to blunt trauma to anterior aspect of the neck. It is further submitted that there is no material on record that the petitioner is responsible for the cause of injuries and since there is no chance of tampering with the evidence particularly when the two eye witnesses have already been examined and taking into account the period of detention of the petitioners in judicial custody, the bail application may be favourably reconsidered.

Learned counsel for the State placed the evidence of the two eye witnesses, the post mortem examination report

and opposed the prayer for bail.

Considering the submissions of the learned counsel for the respective parties, nature of evidence adduced by the prosecution so far in the trial Court, the period of detention of the petitioner in judicial custody and progress of trial, I am inclined to reconsider the prayer and direct release of the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000/-(rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with further conditions as the learned Court may deem just and proper including the conditions that the petitioner shall appear before the learned trial Court on each date to which the case would be posted for trial and shall not try to tamper with the evidence. Violation of any of the conditions shall entail cancellation of bail.

BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

PKSahoo