

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO.887 OF 2022

Simanchal Jena

.... ***Petitioner***
Mr. S.K.Lenka, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr.Samaresh Jena, ASC.

CORAM:
MR. JUSTICE D.DASH

ORDER
02.12.2022

Order No.

01. 1. The matter is taken up through hybrid arrangement (virtual/physical) mode.
2. This is the successive journey of the Petitioner, who is in custody in connection with Nayapalli P.S. Case No.247 of 2016 corresponding to C.T. Case No.19 of 2016, pending on the file of learned 2nd Addl. Sessions Judge, Bhubaneswar running for commission of offence under section- 302/307 of the IPC, in filing this application under section 439, Cr.P.C., for reconsideration of the prayer for grant of bail to the Petitioner in the above mentioned case.
3. Learned Counsel for the Petitioner submits that despite the detention of the Petitioner in custody from 01.08.2016, trial is yet to complete. He also submits that this Court on several occasions having observed for early conclusion of the trial, the conclusion of the trial has not taken place for non-appearance of the witnesses including the injured witness. He submits that those witnesses are purposely avoiding to come to the witness box so as to see that this Petitioner languishes in custody as an under trial prisoner as long as possible. He also submits that here the only eye witness is that Lambodhar and he too is not coming to

depose; despite several directions from the Trial Court. In view of all these above, he urges for reconsideration of the prayer for grant of bail to the Petitioner as there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence.

4. Learned Counsel for the State submits that the prosecution evidence will be closed only after examination of 4 to 5 more witnesses and therefore, at this fag end of the trial, when the Lambodar, the injured witness is yet be examined, release of the Petitioner on bail would be proper and in the interest of justice.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner as also the surrounding circumstances including the period of detention of the Petitioner in custody; when the trial is still going on at a snail's pace; while being inclined to reconsider the prayer for grant bail to the Petitioner in the aforesaid case, it is directed that the Petitioner be released on bail on such terms and conditions as deemed just and proper by the Court in seisin of the case with further conditions that:-

1. Petitioner will appear in person before the Court in seisin of the case on each date of posting of the case without fail;
 2. will appear before the IIC, Nayapalli P.S. every Monday in between 10 am to 2 pm till conclusion of the trial;
 3. will not indulge himself in any criminal activity;
 4. will not leave the jurisdiction of the Court in seisin of the case without prior permission of the Court;
- and

5. will not threaten or terrorize the prosecution witnesses in any manner.

Violation of any of the above condition(s) shall entail cancellation of bail.

6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

***(D. Dash),
Judge.***

Narayan

