

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

**BLAPL No.1492 of 2022**

***Binand Miridia @ Binanda Miridia .... Petitioner***  
***@ Balia***

*Mr. S. Behera, Advocate*

*-versus-*

***State of Odisha .... Opp. Party***  
***Mr. P.K. Pattnaik, AGA***

**CORAM:**

**JUSTICE G. SATAPATHY**

**ORDER**

**04.11.2022**

**Order No.**

- 04.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
  2. This is an application U/S. 439 of Cr.P.C. by the petitioner for grant of bail in connection with S.T. Case No.11 of 2021 arising out of Kaptipada P.S. Case No.203 of 2020 pending in the file of learned Sessions Judge, Mayurbhanj, Baripada for commission of offences punishable under Sections 302/34 of IPC, on the allegation committing murder of his elder brother and causing disappearance of the evidence by disposing of the dead body.
  3. In the course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case and he is no way connected with the murder of his own brother. It is further submitted by him that the petitioner is inside custody since 16.08.2020 but the trial is yet to be commenced. It is further submitted that the only material against the petitioner is his own confession which is inadmissible in the eye of law and the

other circumstance appearing against him is leading to discovery of weapon of offence which is also not established by the materials on record. It is further submitted that there is no direct evidence available against the petitioner and the dead body of the deceased was found in a jungle. It is further submitted that the FIR was lodged against six other persons, but the investigation has not been directed against any of such persons and charge-sheet has already been placed against the petitioner only, although he was not named in the F.I.R. Learned counsel for the petitioner under aforesaid submission prays to enlarge the petitioner on bail.

4. On contrary, learned counsel for the State by placing the statement of the father of the deceased submits that the petitioner is the perpetrator of the crime as he was seen to have carried the axe going to jungle secretly well in advance of the deceased and this circumstance if considered on the face of recovery of weapon of offence pursuant to the disclosure of the statement of the petitioner, it would clearly establish a prima facie case against the petitioner for commission of murder of his own brother and the petitioner having found to have killed his own elder brother, he should not be enlarged on bail.

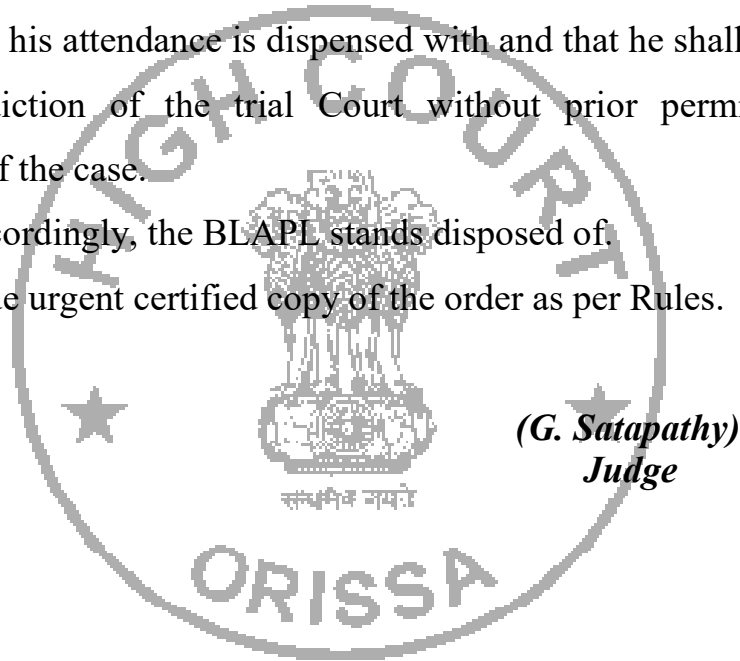
5. Considering the rival submissions put forth and taking into consideration the nature of accusations as also there being no direct evidence on record against the petitioner and keeping in view the pre trial detention of the petitioner since 16.08.2020 and regard being had to the implication of the petitioner in this case on the basis of confession and recovery of weapon and the fact that the object of bail is not punitive, rather balancing the individual liberty of persons and further, no material being placed on record to suggest that the

petitioner would abscond or tamper with evidence and taking into consideration the manner and circumstance of commission of crime as also the supporting materials on record, this Court considers the bail application of the petitioner favourably.

6. Hence, the prayer for the bail of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.50,000/- with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with and that he shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

7. Accordingly, the BLAPL stands disposed of.

8. Issue urgent certified copy of the order as per Rules.



*Subhasmita*