

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.1641 of 2022

Kalia Mukhi

....

Petitioner

Mr. S.K. Pattnaik, Advocate

-versus-

State of Odisha

....

Opp. Party

*Mr. Arupananda Das,
Addl. Government Advocate*

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

**ORDER
29.04.2022**

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 for bail under section 439 of Cr.P.C. in connection with S.T. Case No.30 of 2020 arising out of Jhumpura P.S. Case No.14 of 2020 pending in the Court of learned Additional Sessions Judge, Champua 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, Champua, which was rejected on 06.12.2021.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 28.01.2020

and his earlier bail application in BLAPL No.4171 of 2020 was rejected as per the order dated 27.01.2021 mainly on the ground that he has been identified in the test identification parade and the petitioner was given liberty to renew the prayer for bail after examination of the identifying witnesses in the trial Court. Learned counsel further submitted that the informant Manoj Kumar Mahanta is an identifying witness and he has been examined in the trial Court as P.W.1 and in paragraph-13 of the cross-examination, the informant has stated that on the date of arrest of the accused persons, he was at the police station and police had told him to identify those accused persons and he had identified them at such time there. It is contended by the learned counsel for the petitioner that when the suspects were shown to the identifying witnesses prior to the commission of test identification parade, the sanctity of test identification parade is lost. It is further submitted that another identifying witness, namely, Debendra Behera is not coming to depose his evidence in the trial Court in spite of repeated summons. It is further submitted that one of the co-accused person, namely, Abhisek Apat has already been released on bail by this Court in BLAPL No.6499 of 2021 as per the order dated 18.11.2021 and therefore, the bail application of the petitioner may be favourably reconsidered. Learned counsel for the petitioner has filed the

deposition copy of P.W.1, which is taken on record.

Learned counsel for the State on verification of the case diary submitted that there is no criminal antecedent against the petitioner.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced so far against the petitioner, absence of any criminal antecedent, progress of the trial and 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 subject to condition that the petitioner shall appear before the learned trial Court on each date when the case would be posted for trial.

Violation of any terms and conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge