

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.1486 OF 2020

Suna @ Susant Mallik

....

Petitioner

Mrs. Bharati Dash, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. D.R. Parida, ASC.

CORAM:

MR. JUSTICE D.DASH

ORDER

06.01.2022

Order No.

- 04.
1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
 2. This is the second journey of the Petitioner, who is in custody in connection with Marsaghai P.S. Case No.35 of 2018 corresponding to S.T. Case No.279 of 2018 arising out of C.T. Case No.240 of 2018, pending on the file of learned Addl. Sessions Judge, Kendrapara running for the alleged commission of offence under section 302/120-B/34 of the IPC read with Section-25/27 of the Arms Act, in filing this application under section 439, Cr.P.C., for his release on bail in the above mentioned case.
 3. Learned Counsel for the Petitioner submits that this Petitioner being arrested in the case is in custody since 28.02.2018 and in the meantime, trial has made substantial progress. Inviting the attention of this Court to the depositions of prosecution witnesses, she submits that the witnesses who

had been examined from the side of the prosecution, citing them as the eye witnesses have not implicated the Petitioner in the said incident and most of other witnesses have also followed the same path. In view of all these above, when there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence; she contends that further detention of the Petitioner in custody till conclusion of the trial would serve no useful purpose. Therefore, she urges for grant of bail to the Petitioner.

4. Learned counsel for the State opposes the move. According to him, although two eye witnesses i.e. P.Ws. 8 and 11 have not supported the prosecution version, yet one more witness i.e. Narayan Jena is yet to be examined and this Petitioner being the main assailant; at this stage, it cannot be said that there remains no scope for improvement of the case of the prosecution in establishing the charges against the Petitioner. It is further stated that at this stage, release of the Petitioner on bail may rather protract the trial and keeping in view the nature of the Petitioner, chance of interfering with the trial is also ruled out.

5. Considering the submissions made and on going through the materials as placed; further keeping in view the surrounding circumstances including the factum of detention of the Petitioner in custody; while being inclined to reconsider the prayer for grant of bail to the Petitioner; it is directed that the Petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the Court in seisin of the case with further conditions that that he will appear

in person before the Court in seisin of the case on each and every date of posting of the case till conclusion of the trial; will appear before the IIC, Marsaghai P.S. every Monday in between 10 am to 3 pm till conclusion of the trial; will not threaten or terrorize the prosecution witnesses in any manner whatsoever; and will not leave the jurisdiction of Marsaghai P.S. till conclusion of the trial except on the date fixed before the trial Court and as would be so required to appear before the said Court.

Violation of any of the 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

