

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 1792 of 2022

Chiku @ Chinmaya Tarai* *Petitioner

Mr.D.K. Sahoo, Advocate

-versus-

State of Odisha* *Opp.Party

Mr.Arupananda Das

Addl. Government Advocate

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

**ORDER
27.09.2022**

Order No.

05. 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 under section 439 of Cr.P.C. in connection with Marsaghai P.S. Case No.176 of 2021 corresponding to G.R. Case No. 828 of 2021 pending in the Court of learned S.D.J.M., Kendrapara for offences punishable under sections 395 and 120-B of the Indian Penal Code.

The petitioner moved an application for bail before the Court of Sessions Judge, Kendrapara, which was rejected on 05.01.2022.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 05.04.2021 and his earlier bail application in BLAPL No. 5235 of 2021 was rejected as per order dated 08.12.2021 and liberty was granted to the petitioner to renew his prayer for bail after examination of the identifying witness in the learned trial Court. Learned counsel further submitted that the trial has commenced and the informant Biswajit Behuria is the sole identifying witness and in the learned trial Court he failed to identify the petitioner in the dock. He further submitted that since there is no substantive evidence on identification, in view of the change in the circumstances and the period of detention in judicial custody, the bail application may be favourably reconsidered. Learned counsel files the certified copy of the deposition, which is taken on record. He had also filed the comprehensive affidavit relating to the criminal antecedents against the petitioner

Learned counsel for the State on verification of the case records, particularly the test identification parade report does not dispute that the informant is the sole identifying witness in the case.

Considering the submissions made by the learned counsel for the respective parties, the change in the circumstances after rejection of the earlier bail application, the period of detention of the petitioner in

judicial custody and the fact that the sole identifying witness has not identified the petitioner in Court, 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 including the conditions that the petitioner shall appear before the learned trial Court on each date to which the case is posted for trial, shall not try to tamper with the prosecution evidence and shall appear before the Inspector in-charge of Marshaghai police station once in a week on every Sunday in between 10.00 a.m. to 4.00 p.m. for a period of three months. Violation of any of the conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge