

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2037 of 2022

Kuna @ Deepak Bhoi @ Deepak Kumar Bhoi ***Petitioner***
-versus-
State of Odisha ***Opposite Party***

CORAM: JUSTICE S. PUJAHARI

Order
No.

ORDER
06.05.2022

02. 1. This matter is taken up through hybrid mode.
2. The Petitioner being in custody in S.T. Case No.252(A) of 2019/2018, arising out of G.R. Case No.99 of 2018, corresponding to Ranpur P.S. Case No.67 of 2018, pending in the court of Assistant Sessions Judge-cum-Senior C.J. (Women's Court), Nayagarh, has filed this petition for his release on bail. The offence alleged against him is punishable under Section 395 of I.P.C. read with Sections 25 & 27 of the Arms Act and Sections 3 & 4 of the Explosive Substances Act, 1908.

3. Heard Mr. Basudev Pujari, learned counsel appearing for the Petitioner and the learned counsel for the State-Opposite Party.

4. As it appears, the Petitioner was released on bail vide order dated 16th July, 2019 passed by this Court in BLAPL No.3552 of 2019. However, soon after his release, the Petitioner had defaulted in appearance. As such, N.B.W. was issued against him on 13th August, 2019. Thereafter, Petitioner pursuant to the N.B.W. issued, he was arrested after two years and produced in custody. After the aforesaid, the Petitioner having filed a petition for his release on bail, the trial court has refused to allow him to be released on bail taking note of the conduct that in spite of the direction of this Court, he did not appear in the court and also possibility of his absconding thereafter is not ruled out.

5. It is submitted by the learned counsel for the Petitioner that the default for non-appearance was bona fide one inasmuch as on the date of appearance before the trial court, as it was constantly rainy, as such, the Petitioner on such condition could

not proceed from his native village in the district Jagatsinghpur to appear before the trial court. The Petitioner having already been released on bail and the default being bona fide one, the same should not have weighed the mind of the Court as one of the grounds for refusal of prayer for bail besides other grounds. Considering the aforesaid facts, a lenient view with regard to the bail of the Petitioner be taken and the Petitioner be released on any terms and conditions.

6. However, learned counsel for the State opposes the prayer for bail of the Petitioner.

7. Be that as it may, this Court had earlier granted bail to the Petitioner taking note of the facts and submissions of the case vide order passed by this Court in BLAPL No.3552 of 2019. Thereafter, he having been misused the liberty granted to him, N.B.W. was issued against him to secure his attendance. No doubt, the Petitioner has come out with a case that there is justifiable reason for his non-appearance, but from the materials available on record, it would go to show that the Petitioner after the aforesaid date, did not care even to take note of the order

passed on that date from his conducting counsel or appeared in the said court. Hence, even if the non-appearance may be bona fide, but subsequent default on the part of the Petitioner for long two years and it is only on the basis of an N.B.W. issued being executed, he has been taken to custody, this Court in agreement with the observation of the trial court that once released on bail, the Petitioner may abscond again which would delay the matter, hence he has no case for release on bail.

8. Accordingly, the prayer made by the Petitioner for his release on bail is devoid of merit.

9. Accordingly, the BLAPL stands dismissed.

(S. Pujahari)
Judge

DA