

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.2094 of 2022

Govinda Jena		Petitioner
	Mr. Sudipto Panda, Advocate	
	<i>Versus</i>	
State of Odisha		Opp. Party
		Mr. S.S.Pradhan, AGA

CORAM:
JUSTICE SAVITRI RATHO

ORDER
22.09.2022

Order No.
07.

(Through hybrid mode)

1. Heard Mr. Sudipto Panda, learned counsel for the petitioner and Mr. S.S. Pradhan, learned Additional Government Advocate.
2. The petitioner had earlier approached this Court in BLAPL No. 5066 of 2021 and the same had been dismissed as withdrawn by order dated 15.02.2022.
3. The petitioner is in custody since 28.05.2021 in connection with S.T. Case No. 21/76 of 2021 in the file of learned C.J.M.-cum- Assistant Sessions Judge, Khurda where he is facing trial along with others for commission of offences under Section 395 IPC and Section 25 of the Arms Act. This case arises out of G.R. Case No. 432 of 2021 and Jankia P.S. Case No. 78 of 2021.
4. Mr. Sudipto Panda, learned counsel for the petitioner submits that co-accused persons standing on similar footing as the petitioner have been released on bail by this Court. He further submits that the allegation against the petitioner as per the evidence of P.W.2 is that he arrived at the spot with co-accused Aju @ Sk. Azad after the cash has been snatched by two other accused persons.

Referring to the evidence of P.Ws.2 & 3 he has stated that there is discrepancy in the evidence of P.Ws.2 & 3 regarding their stay at the Police Station and going to the jail for the T.I. parade for which their evidence should be disbelieved and the petitioner released on bail. He also submits that co-accused Aju @ Sk. Azad against whom similar materials are available has been released on bail by order dated 09.09.2022 passed in BLAPL No. 1916 of 2022. The record of BLAPL No. 1916 of 2022 filed by Aju @ Sk. Azad had been called for and perusal of order dated 09.09.2022, reveals that this Court referring to the evidence of P.Ws.2 & 3 found that during trial the petitioner-Aju @ Sk. Azad had been identified by P.W.2 only and that co-accused Chandan @ Chandrasekhar Biswal who had been released on bail by this Court in BLAPL No. 11622 of 2021 had also been identified in T.I. parade, and ultimately released Aju @ Sk. Azad on bail.

5. Mr. S.S. Pradhan, learned Additional Government Advocate objects to the prayer for bail submitting that the petitioner has two criminal antecedents of similar nature, namely Jankia P.S. Case No. 92 of 2019 under Section 392/34 I.P.C. and Jankia P.S. Case No. 103 of 2020 under Section 394 read with Section 412 IPC and so he stands on a different footing. He further submits that the evidence of the witnesses should not be analysed at the stage of bail which should be left to the trial court and as the petitioner has been identified in the T.I. parade by one of the witnesses and co-accused Chandan @ Chandrasekhar Biswal who has been released on bail had been granted on bail on the ground that co-accused persons had been released on bail without considering the fact that he had been

identified in T.I. parade, the petitioner should not be granted bail on the ground of parity.

6. Considering the above submissions and in view of the fact that trial is in progress, I am not inclined to release the petitioner on bail at this stage. However liberty is granted to him to move the trial court for bail afresh if trial is not concluded expeditiously. In such event, the trial court shall consider the prayer for bail in accordance with law without being influenced by the earlier rejection.

7. The BLAPL is accordingly dismissed.

8. No observation in this order should weigh in the mind of the trial court either while conducting the trial or considering the bail application of the petitioner.

9. Urgent certified copy of this order be granted on proper application.

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Savitri Ratho
Judge

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