

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.2304 OF 2022

Baruna Dehury

.... ***Petitioner***
Mr. D.K.Sahoo, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Ms. Samapika Mishra, ASC.

CORAM:
MR. JUSTICE D.DASH

ORDER
14.09.2022

Order No.

- 02.
1. This matter is taken up by through hybrid arrangement (virtual/physical) mode.
 2. This is the successive journey of the Petitioner, who is in custody in connection with Purunakote P.S. Case No.30 of 2016 corresponding to C.T.(S) Case No.221 of 2016 pending on the file of learned Addl. Sessions Judge, Angul, running for the commission of offence under section-147/148/307/302/149 of the IPC, in filing this application under section 439 of the Cr.P.C., for reconsideration of the prayer for grant of bail to the Petitioner in the above mentioned case.
 3. Learned Counsel for the Petitioner submits that this Petitioner on the allegation of having dealt the fatal blow on the head of the deceased committing murder of the deceased; having been arrested in the case is in custody since 23.07.2016. He further submits that so far only 12 witnesses have been examined as against the total of 19 witnesses cited. It is also submitted that co-accused persons who were with the Petitioner

and had played their respective roles in the incident have been released on bail. He further submits that except P.W.10 others have not supported the prosecution case. Placing the depositions of P.W.10, he further points out as to how the same is not acceptable in respect of the role of this Petitioner. In view of all these above as according to him, there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence as also when early conclusion of the trial is not expected; he urges for reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned counsel for the State opposes the move. According to her, the Petitioner is the principal author of the crime and it is against him, the allegations stand to have dealt fatal blow on the head of the deceased and if that is accepted in the trial, a case under Section-302 of the IPC would stand against Petitioner. She however does not dispute the position that the Petitioner is in custody since 23.07.2016 and that by now only 12 witnesses have been examined. She further submits that whether the evidence of P.W.10 would be enough to fasten the guilt upon the Petitioner is not permissible to taken up for consideration at this stage and it is within the domain of the Trial Court.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner with other surrounding circumstances including the period of detention of the Petitioner in custody and factum of grant of bail to the co-accused; while being inclined to reconsider the prayer for grant bail to the Petitioner in the

aforesaid case, 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:-

1. Petitioner will appear in person before the Court in seisin of the case on each date of posting of the case till conclusion of the trial;
2. will not indulge himself in commission of similar type of offence; and
3. will not leave the jurisdiction of the Court in seisin of the case without prior permission.

Violation of any of the condition(s) shall entail cancellation of bail.

5. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

**(D. Dash),
Judge.**

Narayan