

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2566 of 2022

Ashok Kumar Moharana

.... ***Petitioner***
Mr. S. Dwibedi, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. S.R. Roul, ASC

CORAM:
JUSTICE G. SATAPATHY

ORDER
24.11.2022

Order No.

- 04.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the petitioner for grant of bail in connection with Jarada P.S. Case No.11 of 2021 corresponding to S.T. Case No.91 of 2021 arising out of G.R. Case No.17 of 2021 pending in the Court of learned 3rd Additional Sessions Judge, Berhampur for commission of offences punishable under Sections 302/394/450/449 of IPC, on the allegation of robbing of the gold ornaments of the deceased by killing her.
 3. In the course of hearing of the bail application, Mr. S. Dwibedi, learned counsel for the petitioner submits that there is no direct evidence available against the petitioner and the implication of the petitioner is only on the basis of his own confession. It is further submitted by him that the petitioner is inside jail custody since 16.01.2021 and there is no iota of evidence available against the petitioner, either for robbing the deceased or killing her, rather the petitioner being an innocent person has unnecessarily been detained

in custody and the petitioner, therefore, may kindly be enlarged on bail.

4. On the contrary, Mr. S.R. Roul, learned Additional Standing Counsel for the State submits that although there is no direct evidence available against the petitioner, but there is an ample circumstantial evidence available against the petitioner in the form of last scene theory and recovery of a stone pursuant to the disclosure statement of the petitioner. It is further submitted by placing the statements of Mili Pradhan and Jhumuri @ Santoshi Pradhan that the petitioner was last seen with the deceased before she was discovered to have been killed and, therefore, the petitioner in all probability is the author of the crime. It is accordingly prayed by him to reject the bail application of the petitioner.

5. Considering the rival submissions made, nature and gravity of accusations raised against the petitioner as also the gravity of offence alleged and regard being had to the statements of Mili Pradhan and Jhumuri @ Santoshi Pradhan as placed by the learned counsel for the State and taking further into consideration the alleged recovery of stone pursuant to the disclosure statement of the petitioner and other circumstances on record in entirety, this Court, therefore, does not considers it to be a fit case exercised U/S.439 of Cr.P.C.

6. Hence, the prayer for bail of the petitioner stands rejected. Trial be expedited as requested by learned counsel for the petitioner.

7. Accordingly, the BLAPL stands disposed of.

8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge