

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.3071 OF 2022

Gandu @ Gunanidhi Mahakul **Petitioner**
Mr. B.B. Routray, Advocate

-versus-

State of Odisha **Opposite Party**
Mr.S. Jena, ASC.

CORAM:
MR. JUSTICE D.DASH

ORDER
06.12.2022

Order No.

01. 1. This matter is taken up by through hybrid arrangement (virtual/physical) mode.
2. This is the second journey of the Petitioner, who is in custody in connection with Khamar P.S. Case No.07 of 2017 corresponding to C.T. (S) Case No.07 of 2017 pending on the file of learned Addl. Sessions Judge, Talcher, running for the alleged commission of offence under section-302/201/34 of the IPC, in filing this application under section 439, 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 the Petitioner being arrested in the case although is in custody since 29.11.2016, the trial is yet to conclude. He further submits that the deceased is the brother of the Petitioner and as per the prosecution case in course of quarrel between them, this Petitioner is said to have dealt solitary blow by means of Tangia which is the said to have resulted the death. He also submits that the two brothers were having longstanding dispute and on that day, the quarrel had been initiated by the deceased when the materials on record do not

reveal that there was any prior planning from the side of the Petitioner for the incident. In view of all these above, when there remains no scope on the part of the Petitioner to flee from justice and question of tampering with the evidence does not arise; he urges for reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned Counsel for the State opposes the move since it is a case resting on direct evidence. He however, does not dispute the position that the Petitioner being in custody since 29.01.2021, the trial is yet to conclude.

5. Considering the submissions made and on going through the materials on record, further keeping in view the surrounding circumstances including the long period of detention of the Petitioner in custody as there remains no such material to suggest that there is every likelihood on the part of the Petitioner to flee from justice and tamper the evidence; 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 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 leave the jurisdiction of the Court in seisin of the case without prior permission;
3. will not indulge himself in commission of any criminal activity; and

4. will not threaten or terrorise the prosecution witnesses already examined and to be examined in any manner.

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

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

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

Narayan

