

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2478 of 2021

Benedict @ Kerketta

.....

***Petitioner
Mr. Manas Chand, Adv.***

Vs.

State of Odisha

.....

***Opp. Party
Mr. S.S. Pradhan, A.G.A.***

CORAM:

JUSTICE SAVITRI RATHO

ORDER

29.09.2022

Order No.

(Through hybrid mode)

05.

1. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner-Benedict @ Kerketta , who is facing trial along with his son Sandeep Prabodha Kerketta in C.T.(S) Case No.02 of 2021 pending in the Court of learned Sessions Judge, Angul for commission of offences punishable under Section 302/34 of the I.P.C. This case arises out of Nalco Town P.S. Case No.131 of 2020.

2. This is the second journey of the petitioner to this Court seeking bail. His earlier application BLAPL No.7541 of 2020 had been disposed of as withdrawn on 04.02.2021 on the submissions of the learned counsel for the petitioner that the petitioner wanted to renew his prayer for bail before the Court of Sessions as charge sheet has been filed in the meanwhile. His prayer for bail has thereafter been rejected by order 03.03.2021 passed in C.T(S) Case No. 02 of 2021, by the learned Sessions Judge, Angul.

3. The allegations against the petitioner are that the deceased his daughter-in-law was working in Bank of India, Talcher and there were regular quarrels between husband and wife. The parents and sister of the deceased have also stated that the petitioner also used to be involved in the quarrels. On the date of

occurrence, neighbours heard the sound of quarrel from the apartment where the accused persons and deceased lived and the body of the deceased was found at the bottom of the stairs with a number of injuries and the petitioner and his son are the authors of the injuries. The doctor has opined that except for one injury on the wrist, the rest are ante mortem injuries and homicidal.

4. Mr. Chand, learned counsel for the petitioner submits that the petitioner is an old man of 73 years and he is in custody since 15.09.2020 and there is no direct allegation against him. The main accused his son is also in custody and two of the immediate neighbours and the security guard namely Tarun Kumar Behera who have been examined as P.Ws. 1, 2 and 3 during trial have not supported the prosecution case and have denied knowledge about the occurrence. He submits that in view of the age of the petitioner, the period spent by him in custody and the nature of materials available against him, he may be released on bail.

5. Mr. Pradhan, learned Addl. Govt. Advocate opposed the prayer for bail stating that a number of ante mortem injuries have been detected on the body of the deceased including one post mortem injury on her wrist which indicates that the accused persons were trying to give her death a colour of suicide which the doctor has been opined to be homicidal in view of the nature of injuries sustained by her. The conduct of the petitioner has been suspicious as even though they were there in the house along with the deceased, no satisfactory explanation has been given by them regarding the injury sustained by her. He also submits that the trial has just started and number of witnesses are yet to be examined for which the petitioner should not be released on bail.

6. It is not disputed that the petitioner is aged about 73 years and is in custody since more than two years. Considering his age

and the period spent by him in custody, and the submission that a number of witnesses are still to be examined, I am inclined to allow this application for bail.

7. Let the petitioner- Benedict @ Kerketta be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, including the following conditions:

(i) He will not indulge in any criminal activity while on bail.

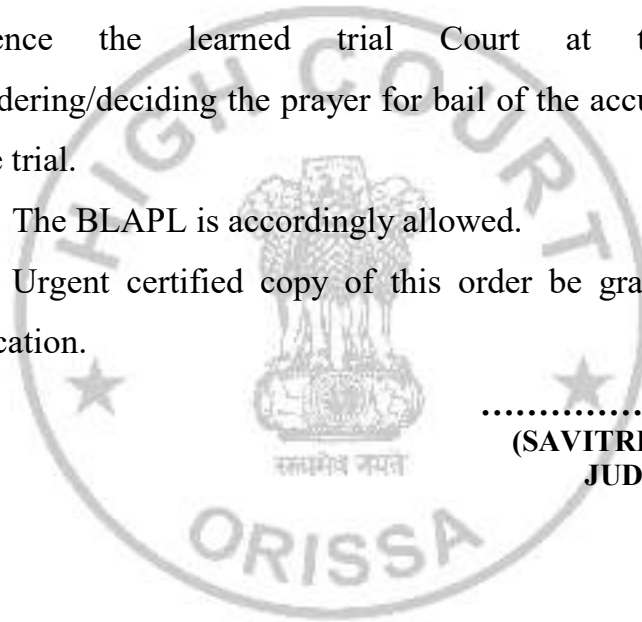
(ii) He will not threaten or try to influence prosecution witnesses while on bail.

8. It is made clear that no observation in this order should influence the learned trial Court at the time of considering/deciding the prayer for bail of the accused at the time of the trial.

9. The BLAPL is accordingly allowed.

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

Sukanta



.....
(SAVITRI RATHO)
JUDGE