

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.3275 OF 2022

Gudu @ Sonu Nigam Mohapatra ***Petitioner***

Mr. D.K. Sahoo, Advocate

-versus-

State of Odisha

.... ***Opposite Party***

Mr. Samaresh Jena, ASC.

CORAM:

MR. JUSTICE D.DASH

ORDER

22.12.2022

Order No.

04.

1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.

2. This is the successive journey of the Petitioner in filing this application under Section-439 of the Cr.P.C. who is in custody in connection with Kendrapara Town P.S. Case No.139 of 2017 corresponding to G.R. Case No.1624 of 2017 (at present converted to S.T. Case No.222 of 2018) pending on the file of the learned Addl. Sessions Judge, Kendrapara running for commission of offence under section-387/302/120-B of the IPC read with Section-25/27 of the Arms Act 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 is in custody since 22.12.2017 and the trial is still continuing. On instruction, he further submits that by now out of 47 charge-sheeted witnesses, 32 witnesses have been examined. Inviting the attention of this Court to the copy of the depositions placed in the file, he submits that the star witness for the prosecution who had made direct allegation that the Petitioner had fired point blank at the deceased during, the trial has not implicated this Petitioner as the author of that gunshot injury on the body of the deceased, when others too have followed the same path. It is also his

submission that in the meantime co-accused persons, namely, Babul @ Umakanta Panda and Titoo @ Sayed Usman Ali similarly situated with the Petitioner have already been released on bail by order passed by this Court in BLAPL No.2716 of 2021 and BLAPL No. 822 of 2022. In view of all these above, he urges that further detention of the Petitioner in custody till conclusion of the trial would not be in the interest of justice, when there remains no scope on the part of the Petitioner to flee from justice and the question of tampering the evidence at this stage too does not arise.

4. Learned Counsel for the State opposes the move in view of the serious allegations leveled against the Petitioner. He submits that other material witnesses are yet to be examined and therefore, what evidence would surface ultimately in the trial cannot be visualized at this stage. He however does not dispute the position that the Petitioner is in custody since 22.12.2017.

5. Considering the submissions made; further keeping in view the surrounding circumstances including the factum of release of co-accused persons on bail and the period of detention of the Petitioner in custody; 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. he will appear in person before the Court in seisin of the case on each and every 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 till conclusion of the trial;
3. will not indulge himself in any criminal activity whatsoever; and
4. will appear before the IIC, Kendrapara Town P.S. every Monday in between 10 am to 2 pm till conclusion of the trial.

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.***

Himansu

