

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2727 of 2021

Dutia Badi

....

Petitioner

Mr. Devashis Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. S.K. Nayak, AGA

CORAM:

MR. JUSTICE D.DASH

ORDER

05.07.2022

Order No.

- 02.
1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
 2. This is the second journey of this petitioner, who is in custody in connection with Lephripada P.S. Case No.73 of 2019 corresponding to G.R. Case No.628 of 2019 arising out of S.T. Case No.133 of 2019 pending in the Court of the learned Additional Sessions Judge, Sundargarh for offence punishable under sections 302/34, I.P.C. in filing this application under section 439, Cr.P.C. for his release on bail.
 3. Learned counsel for the Petitioner submits that on the earlier move the wife of the Petitioner, the co-accused having been released on bail, the prayer for grant of bail to this Petitioner had been rejected. He further submits that although this Petitioner has by now remained in custody from July, 2019, the trial has not yet commenced and the charge is yet to be framed. It is submitted that the Petitioner hails from rural background and when the happening of the incident is taken into account, it would be seen that here the deceased was the aggressor and this Petitioner and others then reacted to the same, which has ultimately led to the incident. He, therefore, contends that further detention of the Petitioner in custody would not be justified when there remains no scope on the part of the Petitioner to flee from justice or tamper the evidence. He thus urges for reconsideration of the

prayer for grant of bail to the Petitioner on such terms and conditions as deemed just and proper.

4. Learned counsel for the State opposes the move. According to him, the Petitioner and his wife, the co-accused are responsible for the death of the deceased as evident from the statement of the witnesses that the deceased being tied was assaulted and the Doctor has opined the nature of death to be homicidal. He, however, does not dispute the position that the trial is not proceeding at the required speed.

5. Considering the submissions made: further keeping in view the materials on records as those stand against the petitioner with other surrounding circumstances as also the period of detention of the petitioner in custody and on going through the order passed by the learned Additional Sessions Judge; in the absence of any such impediment; while being inclined to reconsider the prayer for bail of this petitioner, it is directed that the petitioner be released on bail in the aforesaid case with such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that he will not terrorize or threaten the prosecution witnesses in any manner; will not indulge himself in any criminal activity; 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 and will appear before the Inspector-in-Charge of Lephripada P.S. on every alternate Monday in between 10.00 a.m. to 2.00 p.m. for a period of one year.

6. The BLAPL is accordingly disposed of.

7. Issue urgent certified copy as per rules.

(D. Dash)
Judge