

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3617 of 2022

Jitu @ Santosh Biswal

....

Petitioner

Mr. Julu Khansama, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. G.N. Rout, ASC

CORAM:

MR. JUSTICE D.DASH

ORDER

19.07.2022

Order No.

01. 1. This matter is taken up hybrid arrangement (virtual/physical) mode.
2. This is the second journey of this petitioner, who is in custody in connection with Brajarajnagar P.S. Case No.139 of 2019 corresponding to C.T. Case No.1282 of 2019 further corresponding to C.T. (Sessions) Case No.69 of 2019 pending in the Court of the learned Sessions Judge, Jharsuguda for offence punishable under sections 302,120-B,34, I.P.C. read with section 25/27 of the Arms Act in filing this application under section 439, Cr.P.C. for his release on bail.
3. Learned counsel for the Petitioner inviting the attention of the Court to the deposition of the important witness for the prosecution, i.e., P.W.6 submits that although he has stated that this Petitioner was present near the place of occurrence yet he is attributing accused Bulu and Gurmeet to have open fire at the deceased, namely, Amit and murdered him by causing gunshot injuries. He further submits that except the evidence that the Petitioner had gone to the place with another accused Okil following those accused Bulu and Gurmeet, who are on another Motor Cycle, no other material has been collected to show that this Petitioner was a party to the conspiracy. In view of the above, citing the period of detention of the Petitioner in custody when there remains no

scope on the part of the Petitioner to flee from justice and tamper the evidence and principal co-accused persons are facing the trial being in custody, he urges for reconsideration of the prayer for grant of bail to this Petitioner.

4. Learned counsel for the State opposes the move. He on going through the deposition of P.W. 6 although does not dispute that as per his version, accused Bulu and Gurmeet have fired at the deceased, yet contends that it's too premature a stage to take a view that this Petitioner was not a party to the conspiracy. He also submits that even in any event for the presence of the Petitioner, his complicity with the aid of section 34 of I.P.C. would come in for the murder.

5. Considering the submissions made; further keeping in view the materials on records including the depositions of P.W.6-Biswanath Behera 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 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 on 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; 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 not leave the jurisdiction of the court in seisin of the case without prior permission.

6. The BLAPL is accordingly disposed of.

7. Issue urgent certified copy as per rules.

(D. Dash)
Judge