

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4160 of 2022

***Kanhei Swain @ Santosh Kumar
Swain***

Petitioner

Mr.S.K.Tripathy, Advocate

-versus-

State of Odisha

Opposite Party

Mr. K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

19.05.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as the learned Additional Standing Counsel for the State.
3. This is an application under Section 439 of the Criminal Procedure Code filed by the Petitioner to release him on regular bail in connection with Baramba P.S. Case No.47 of 2003 corresponding to G.R.Case No.47 (C) of 2003 pending in the Court of the learned J.M.F.C., Baramba for commission of an alleged offence under Section 395 of the Indian Penal Code.
4. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in jail custody since 13.04.2022 and after completion of investigation, the Investigating Officer submitted charge sheet in this case. It is also submitted by the learned counsel for the Petitioner that two accused persons have already been acquitted by the trial court. The Petitioner was arrested and inside custody since

13.04.2022. It is submitted by the learned counsel for the Petitioner that although the Petitioner was available in the locality but the Police has not arrested him. It is further submitted by the learned counsel for the Petitioner that since the Petitioner is the inhabitant of Cuttack district, there is no chance of his absconding or fleeing from receiving justice. In the event of his release by this Court, the Petitioner shall appear before the trial court on each date of posting of the case and is ready and willing to abide by the terms and conditions that may be imposed by this Court.

6. Learned counsel for the State on the other hand opposes the prayer for bail of the Petitioner and submits that the Petitioner is an absconder from the date of inception of the case and the Police after a strenuous effort could not be able to apprehend him. Accordingly, learned counsel for the Petitioner urges rejection of the bail application of the Petitioner.

7. Considering the nature of allegations and the fact that the co-accused persons have already been acquitted by the trial court, this Court is inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions

- i) he shall cooperate with the trial of the case and shall appear in trial court on each and every date to which the case is posted.
- ii) shall not indulge in any offence of similar nature
- iii) shall not tamper with the prosecution evidence while on bail.
- iv) shall not influence or threaten any prosecution witnesses

while on bail.

- v) Violation of any of the terms and conditions shall entail cancellation of bail.

8. The trial court may also impose any other condition(s) as deem fit and proper.

9. The Bail Application is accordingly disposed of.

10. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra)
Judge

