

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4591 of 2022

Sushanta Naik

Petitioner
....
M/s. Sk. Zafarulla, Advocate

-versus-

State of Orissa

Opp. Party
....
M/s.P.K.Patnaik, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

16.11.2022

Order No.

- 03.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Dhenkanal Sadar P.S. Case No.51 of 2015 corresponding to G.R. Case No.143(A) of 2015 pending in the Court of learned S.D.J.M., Dhenkanal for commission of offence punishable U/Ss. 147/148/342/302/201/149 of the I.P.C.
 3. The gist of allegation reveals that on the relevant date, time and place of the occurrence, the petitioner and fourteen others had conjointly assaulted the deceased by means of different weapon of offence and thereby killed the deceased and subsequently the dead body was recovered from inside a bore well.
 4. In the course of hearing of the bail application, Mr.Zafarulla, learned counsel for the petitioner submits that the petitioner is inside jail custody since 25.04.2022 after he voluntarily surrendered before the learned S.D.J.M., Dhenkanal but co-accused standing on similar footing and on higher pedestal of accusations have already been granted bail and even some of the co-accused persons have been granted bail by learned District & Sessions Judge. It is also submitted

that the allegation on record reveals about the father of the deceased suspected the petitioner and others for killing his son but the fact remains that the petitioner is no way connected with the crime. It is also submitted that after the dead body of the deceased was detected from a bore well, it was subjected to post-mortem and post-mortem report reveals a number of injuries on the person of the deceased, however, the informant had lodged the F.I.R. against some of the accused persons but not against the present petitioner for kidnapping the deceased. It is also submitted that the witnesses Brahmananda Naik and Sujata Naik claiming themselves to be eye witnesses have stated before the police about killing of the deceased by gunshot injuries but the post mortem report itself falsify such statement of the witnesses because nowhere in the post mortem report it was stated that the deceased had sustained any gunshot injury. It is, accordingly, prayed to grant bail to the petitioner.

4. On the contrary, learned counsel for the State submits that the petitioner after managing to abscond from the process of Court for around eight years but ultimately surrendered before the Court and this conduct of the petitioner in absconding disentitles him to bail. It is further submitted that there are sufficient materials on record to find out prima facie case against the petitioner. Learned counsel for the State, accordingly, prays to reject the bail application of the petitioner.

5. Considering the rival submissions made, the nature of accusations raised against the petitioner and the fact that co-accused persons namely, Pramod Naik, Muna Naik, Bauria @ Bauri Naik and Daula @ Daulata Naik have already been granted bail and regard being had to the voluntarily surrender of the petitioner before the

Court of learned S.D.J.M., Dhenkanal and the period of custody of the petitioner since 25.04.2022 and taking into consideration the other circumstances in entirety, this Court grants bail to the petitioner.

6. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on furnishing bail bonds of Rs.50,000/- with two solvent sureties each for the like amount to the satisfaction of the learned trial Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall not leave the jurisdiction of the learned trial Court without prior permission till conclusion of the trial and the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with and that the petitioner shall report attendance before the jurisdictional Police Station once in a fortnight preferably on second Saturday of every month in between 10 A.M. to 12 Noon for six months. The I.I.C. of jurisdictional Police Station shall not detain the petitioner unnecessarily after recording his attendance beyond the time as stipulated.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the petitioner without further reference to this Court, if any of the above conditions are violated or a case for cancellation of bail is otherwise made out.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge