IN THE HIGH COURT OF ORISSA AT CUTTAC

BLAPL NO.4696 OF 2019

Rasika Barik .... ***Petitioner***

Mr. Manas Chand, Advocate

-versus-

State of Odisha .... ***Opposite Party***

Mr. S.K. Nayak, AGA.

CORAM:
MR. JUSTICE D.DASH

ORDER

Order No. **10.10.2022**

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

2. This is the second journey of the Petitioner in filing this application under Section-439 of the Cr.P.C. who is in custody in connection with Koksara P.S. Case No.321 of 2017 corresponding to C.T. Case No.14 of 2018 pending on the file of the learned Additional Sessions Judge, Dharamgarh running for commission of offence under section-302 of the IPC 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 this Petitioner being arrested in the case is in custody since 25.12.2017. He further submits that no such noticeable progress has yet been made in the trial. It is also his submission that even accepting the prosecution version, it cannot be stated that the incident had not taken place with some prior planning. Inviting the attention of this Court to the F.I.R. averments, he submits that in course of quarrel, there being hot exchange of words, it is alleged that the Petitioner all of a sudden assaulted the deceased by means of Geda. In view of all these above, when there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence as also when

completion of trial is not expected to be so soon; he urges for reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned Counsel for the State opposes the move. According to him, there being direct evidence that the assault made by the Petitioner has resulted the death; it is not a fit case for grant of bail to the Petitioner. He however does not dispute the fact that the Petitioner is in custody since 25.12.2017 and there has been no substantial progress in the trial.

5. Taking into account the submissions made; further keeping in view the surrounding circumstances especially, 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 shall 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. shall not indulge himself in commission of any criminal activity; and
3. shall not leave the jurisdiction of the Court in seisin of the case till conclusion of 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.

Narayan