IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4738 of 2022

Kunja Rana .... ***Petitioner***
M/s. P.K.Nayak, Advocate

-versus-

State of Orissa .... ***Opp. Party***
M/s.S.R.Roul, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

Order No. **14.11.2022**

02. 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 Sindhekela P.S. Case No.150 of 2019 corresponding to S.T.Case No.8 of 2020 pending in the Court of learned Addl. Sessions Judge, Titlagarh for commission of offence punishable U/Ss. 364/302/201/120-B of the I.P.C. read with Section 5 of Odisha Prevention of Witch Hunting Act on the allegation of instigating co-accused to kill his sister on account of some superstition and practice of witchcraft by entering into conspiracy.

3. In the course of hearing of the bail application, Mr.P.K.Nayak, learned counsel for the petitioner submits that the informant has lodged F.I.R. against un-known persons but during course of investigation his son was found to be involved in this case and accordingly, in the police custody, the son of the informant stated that on the instruction and instigation of the petitioner, he had killed his sister. It is further submitted that the petitioner is inside jail custody since 13.08.2020 and in the meanwhile, around 15 out of 45 witnesses have already been examined in this case and the material

witnesses have turned hostile to the prosecution case and the only allegation appearing against the petitioner is the confession of co-accused before police and the petitioner having detained in custody for more than two years may be granted bail.

4. On the contrary, Mr.S.R.Roul, learned counsel for the State, however, strongly opposes the bail application of the petitioner but he, however, does not dispute that the main allegation of killing the deceased is against co-accused. It is further submitted that while in jail, the petitioner came in association with co-accused and in the course of such association, the petitioner instigated and incited the co-accused to kill his sister and accordingly, the co-accused had killed his sister and, thereby, the petitioner having prima facie role in the commission of murder should not be enlarged on bail.

5. Considering the rival submissions made, nature and character of accusations raised against the petitioner, the main allegation of murder being directed against co-accused and keeping in view the pre-trial detention of the petitioner since 13.08.2020 and regard being had to examination of 15 witnesses who have not supported the prosecution case in entirety and taking into consideration other circumstance collectively, this Court considers the bail application of the petitioner favourably.

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.

7. Accordingly, the BLAPL stands disposed of.

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

(G. Satapathy)
Judge

Kishore