

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.4348 OF 2020

Bhagaban Khatei

....

Petitioner

Mr. B. Mohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr.S.K. Nayak, AGA,

Mr. C. Sahu, Adv. (Informant).

CORAM:

MR. JUSTICE D.DASH

ORDER

20.10.2022

Order No.

12. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
2. This is the successive journey of the Petitioner in filing this Application under section-439 of the Cr.P.C. who is in custody in connection with Dharakote P.S. Case No.127 of 2013 corresponding to S.T. Case No.91 of 2013 arising out of G.R. Case No.636 of 2013 pending in the Court of learned Addl. Sessions Judge, Aska running for commission of offence under sections-302/506/34 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 despite detention of the Petitioner in custody since 04.01.2014, the trial is still awaiting for completion awaiting examination of five prosecution witnesses. He submits that more than a year or so those witnesses are not appearing and the trial is thus prolonging. He submits that important witnesses like the family members of the deceased have in the meantime been examined and cross-examined in full and therefore, there remains no scope on the part of the

Petitioner to terrorize or threaten them. He submits that on going through the evidence of those witnesses examined so far, the prosecution case as laid in implicating the Petitioner stands doubtful. In view of all these above, he urges for reconsideration of the prayer for grant of bail to the Petitioner as there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence. It is alternatively submitted that in the event; this Court is not inclined to accept the prayer for reconsideration of the prayer for grant of bail to the Petitioner, keeping in view the sufferings of the family members of the Petitioner for such long period of detention at least it may be considered for grant of interim bail to the Petitioner so as to enable him to take care of his family members who are suffering a lot and facing extreme hardship and are no more in a position to continue without the help and aid of this Petitioner by their side for some time.

4. Learned Counsel for the Informant as well as the State oppose the move. According to them, the trial is at its fag end and in view of the serious nature of allegations standing against this Petitioner and others particularly as regards the manner in which the incident is said to have taken place as already deposed to by few witnesses; it is not a case for grant of bail or interim bail to the Petitioner. They however, do not dispute the position that the Petitioner is in custody since 04.01.2014 and the prosecution has not able to secure the presence of those left over five witnesses for quite a long period as they are playing hide and seek.

5. Considering the submissions made and on going through materials as placed; further keeping in view the surrounding circumstances especially the long period of detention of the Petitioner in custody and his sufferings as well as sufferings of his

family members, while being not inclined to grant regular bail to the Petitioner, this application stands disposed of granting interim bail to the Petitioner for a period of eight (8) weeks. Accordingly, it is directed that the Petitioner be released on interim bail for a period from eight (8) weeks from the date of his actual release from custody on such terms and conditions as the Trial Court deems just and proper with further conditions that Petitioner will appear in person before the Court in seisin of the case on the date/dates falling during the period of interim bail; will appear before the IIC, Dharakote P.S. every Monday in between 10 am to 2 pm throughout the period of interim bail; will not leave the jurisdiction of the Court in seisin of the case; will not threaten or terrorize the prosecution witnesses in any manner; and will surrender before the said Court after expiry of the interim period positively.

Violation of any of the condition(s) shall entail cancellation of interim bail.

6. The BLAPL is accordingly disposed of.

Issue urgent certified copy as per rules.

**(D. Dash),
Judge.**

Narayan