

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.3922 OF 2021

Santosh Panigrahi @ Ichili

....

Petitioner

Mr. V. Narasingh, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. S.K. Nayak, AGA.

CORAM:

MR. JUSTICE D.DASH

ORDER

03.01.2022

Order No.

07. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
2. This is the successive journey of the Petitioner who is in custody in connection with Badabazar P.S. Case No.93 of 2017 corresponding to S.T. Case No.35 of 2018 on the Court of learned 3rd Sessions Judge, Berhampur, running for alleged commission of offence under Section 326/307/302/120-B/147/148/149 of the IPC read with Section-25 (1-B) (b)/3 & 4 of the E.S. Act, in filing this application under Section-439 of the Cr.P.C. for his release on bail in the above mentioned case.
3. Learned Counsel for the Petitioner submits that this Petitioner being arrested in the case is in custody since 19.07.2017 and in the meantime 8 (eight) out of 38 (thirty eight) witnesses have been examined in the trial. It is submitted that the Petitioner is not named in the F.I.R. as to have played any role either directly or indirectly in the said incident. It is submitted that based on the statement of some witnesses recorded under Section-161 of the Cr.p.C., the Petitioner has been attributed to have been supplied the

hand made bombs which are said to have been used in the incident in causing the death of Upendra @ Bubu Behera when the prosecution case against other accused persons stands to the effect that they directly attacked the deceased, when he was in his shop and murdered him by inflicting fatal injuries after throwing bombs. He next submits that one accused namely, Ramesh Chandra Jena who has been arraigned in the case as to have hatched the conspiracy with the other accused persons in causing the death of the deceased has been released on bail. According to him, when there surfaces no direct material to connect the Petitioner in the crime and co-accused arraigned as conspirator is on bail, at this stage of trial, when some important witnesses have already been examined although some are yet to be, further detention of the Petitioner in custody would serve no useful purpose. He submits that the apprehension as regards indulgence of the Petitioner in other criminal activity in posing hindrance to the trial can be well taken care of by imposing stringent conditions. In view of all these above; he urges for grant of bail to the Petitioner in any such terms and conditions as deemed just and proper.

4. Learned Counsel for the State opposes the move. According to him, the Petitioner has the prior involvement in another case for commission of offence under Section-302 of the IPC and the trial in that case is going on. He further submits that although the prosecution case against the Petitioner is not on the score that he directly attacked the deceased and caused his death, yet it is the case against him that he deployed the co-accused persons by supplying bombs in causing the murderous assault upon the deceased. He submits that other important witnesses are yet to be examined and the release of this Petitioner on bail is likely to influence the trial.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner with other surrounding circumstances including the period of detention of the Petitioner in custody and on going through the order passed by the learned 1st Addl. District & Sessions Judge; while being inclined to reconsider the prayer for grant of bail to this Petitioner; it is directed that the Petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the Court is seisin of the case with further conditions that:-

1. he will appear in person before the Court in seisin of the case on each date of posting of the case without fail;
2. will appear before the IIC, Gosaninuagaon P.S. every Monday and Friday in between 10 am to 2 pm till conclusion of the trial;
3. will not indulge himself in any criminal activity;
4. will not threaten or terrorize the prosecution witnesses in any manner whatsoever and will not contact with them directly or indirectly; and
5. will not leave the jurisdiction of Gosaninuagaon P.S. till conclusion of the trial except on the date fixed before the trial Court and as would be so required to appear before the said Court.

Violation of any of the condition(s) shall entail cancellation of bail and in that event, it would be open to the prosecution to move for cancellation of bail of the Petitioner.

6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

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