

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.4971 of 2022**

***Ashok Kumar Upadhaya @ Gandua*** .... ***Petitioner***  
***Mr. D.P. Dhal, Sr. Advocate***

***-versus-***

***State of Odisha*** .... ***Opp. Party***  
***Mr. S.S. Pradhan, AGA***

**CORAM:**  
**JUSTICE G. SATAPATHY**

**ORDER**  
**12.12.2022**

**Order No.**

- 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 G.R. Case No.3787 of 2021 pertaining to CID C.B. Odisha P.S. Case No.18 of 2021 arising out of Puri Sadar P.S. Case No.424 of 2021 pending in the file of learned Nyayadhikari Grama Nyayalaya, Puri for commission of offences punishable under Sections 120-B/302/201/34 of IPC, on the allegation of committing murder of the deceased.
  3. In the course of hearing of the bail application, Mr. D.P. Dhal, learned Senior Counsel for the petitioner, by filing an appearance memo in Court today, submits that the petitioner has been implicated in this case only on the basis of confession of co-accused, who has already been granted bail by this Court and the petitioner stands in a

better footing then that of co-accused released on bail. It is further submitted by him that the petitioner is in custody since 23.12.2021 and in the meanwhile charge-sheet has already been submitted in this case and thereby, there is hardly any scope for the petitioner to tamper with the prosecution witnesses. On the aforesaid submission, learned Senior Counsel for the petitioner prays to grant bail to the petitioner.

4. On the contrary, Mr. S.S. Pradhan, learned A.G.A. while opposing the bail application of the petitioner vehemently submits that the petitioner never stands on lesser footing then that of co-accused released on bail, rather the present petitioner is the principal accused in this case and he had killed the deceased by forcibly drowning him. It is accordingly prayed by him to reject the bail application of the petitioner.

5. Considering the rival submissions made, taking into consideration the nature and gravity of the accusations raised against the petitioner and the materials collected in support of such allegations against the petitioner and regard being had to the pre trial detention of the petitioner and release of co-accused person on bail and keeping in view the object of bail and the principle in which bail is granted and further taking into account the fact that the bail is the rule but jail is the exception and taking into consideration the other circumstance in entirety and further, there is one of the component of implication of the petitioner being the confession of co-accused, this Court admits the petitioner on bail.

6. Hence, the prayer for the bail of the petitioner stands allowed

and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with and that he shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

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. Issue urgent certified copy of the order as per Rules.

**(G. Satapathy)**  
**Judge**

*Subhasmita*

