

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5054 of 2022

Manoj Kumar Mallick @ Mantu ***Petitioner***

Mr. P.K. Pratap, Advocate

-versus-

State of Odisha ***Opp. Party***

*Mr. Manoranjan Mishra,
Addl. Standing Counsel*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
28.09.2022**

Order No.

02. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with Badachana P.S. Case No.195 of 2020 corresponding to C.T. (Sessions) Case No. 25 of 2022 pending in the Court of learned Asst. Sessions Judge, Chandikhole for offences punishable under sections 457, 395 and 397 of the Indian Penal Code and sections 25 and 27 of the Arms Act.

The petitioner moved an application for bail before the Court of Asst. Sessions Judge, Chandikhole, which was rejected on 18.05.2022.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 18.08.02020 and his earlier bail application in BLAPL No. 6319 of 2020 was rejected as per order dated 18.11.2020 mainly on the ground that he has been identified in the test identification parade and liberty was granted to the petitioner to renew his prayer for bail after examination of the identifying witness in the learned trial Court. Learned counsel further submitted that the trial has commenced and the informant, who is the sole identifying witness in the case has failed to identify the petitioner in the Court. He further submitted that since there is no substantive evidence on identification, in view of the change in the circumstances and the period of detention in judicial custody, the bail application may be favourably reconsidered.

Learned counsel for the State after going through the case records submitted that P.W.1 is the sole identifying witness in the case. He further submitted that there are other witnesses, who are yet to be examined.

Considering the submissions made by the learned counsel for the respective parties, nature of evidence adduced by the informant, the change in the circumstances after rejection of the earlier bail application, the period of detention of the petitioner in

judicial custody and the fact that the sole identifying witness has not identified the petitioner in Court, I am inclined to reconsider the prayer for bail and direct the petitioner to be released on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper including the conditions that the petitioner shall appear before the learned trial Court on each date to which the case is posted for trial, shall not try to tamper with the prosecution evidence and shall appear before the Inspector in-charge of Badachana police station once in a week on every Sunday in between 10.00 a.m. to 4.00 p.m. for a period of three months. Violation of any of the conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge