

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4103 of 2021

Bhubane Bag

....

Petitioner

Mr.Devashis Panda, Advocate

-versus-

State of Odisha

....

Opp. Party

*Mr.J.P. Patra,
Addl. Standing Counsel*

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

**ORDER
11.03.2022**

Order No.

03.

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. for grant of bail to the petitioner in connection with Junagarh P.S. Case No.268 of 2020 corresponding to C.T. Case No. 260 of 2020 pending in the Court of learned J.M.F.C., Junagarh for alleged commission of offence under section 395 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of Addl. Sessions Judge, Dharamgarh, which was rejected on 13.05.2021.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 07.10.2020 and his earlier bail application in BLAPL No. 626 of 2021 was rejected as per order dated 22.02.2021 mainly, on the ground that the petitioner was identified in the test identification parade and liberty was granted to the petitioner to renew his prayer for bail after examination of the identifying witnesses in the trial Court. Learned counsel further submitted that the informant Rahul Nag is the identifying witness and he has been examined in the learned trial Court as P.W.6 and in the cross-examination he has stated that at the time of occurrence, the accused persons were wearing masks and only their forehead was visible to him. He further stated that the accused persons/suspects were standing wearing different kinds of dresses and some of them were of fair complexion while others were not and they were not at all identical. P.W. 6 further stated that he came to Junagarh police station for ten to twelve times and accompanied the police for the purpose of identification. Learned counsel further submitted that in view of such evidence of the identifying witness, it is very difficult to place reliance on the identification evidence, particularly when it is of a sole witness and there is no material that the suspects as well as the persons mixed with the

suspects were also wearing masks at the time of identification parade as the witnesses had seen the culprits wearing marks during the occurrence. It is further submitted that in view of the available materials on record, the bail application of the petitioner may be favourably reconsidered.

Learned counsel for the State, on the other hand, opposed the prayer for bail and submitted that the evidentiary value of identification is to be adjudicated by the learned trial Court at the appropriate stage and it would not proper to assess the same at this stage. He further submitted that the petitioner has got two criminal antecedents.

Considering the submissions made by the learned counsel for the respective parties, nature of evidence adduced by the prosecution so far particularly that of the identifying witness and taking into account the period of detention of the petitioner in judicial custody, 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/- (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with further conditions as the learned Court may deem just and proper including the further conditions that he shall

appear before the learned trial Court on each date to which the case would be posted for trial and shall not indulge in any criminal activities. Violation of any of the conditions shall entail cancellation of bail.

BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

PKSahoo

