

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5170 of 2022

Suka Padiami

....

Petitioner

Ms. M. Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

18.07.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is an accused in C.T. Case No.19 of 2020, arising out of G.R. Case No.197 of 2013, pending on the files of learned Additional Sessions Judge-cum-Special Judge, Malkangiri, corresponding to Mathili P.S. Case No.40 dated 25.04.2013 under Sections 147/148/342/363/121/121-A/124-A/302/149 of IPC read with Section 25/27 Arms Act/ Section.17 Cr.L.A. Act/ Section 16/18/20 U.A.P. Act and is in custody since 16.04.2019.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Malkangiri, by order dated 21.05.2022 in the aforementioned case, the present BLAPL has been filed.
5. On perusal of the order of rejection, it is seen that the learned Court below has declined to entertain petitioner's application for bail relying on the statement of eye witnesses.

4. It is submitted by the learned counsel for the petitioner that the eyewitnesses named in the order of rejection have been examined as P.Ws. 14, 12, 1 and 7 respectively and their statements have been placed on record.

6. On perusal of the same it is seen that all of them resiled for their Statement.

7. It is also submitted that accused persons similarly circumstanced, Dula Kabasi, Bati Sodi, Suka Sodi and Bati @ Bhima Madkami was released on bail by order dated 24.02.2022 in BLAPL No. 1302 of 2022. Placing reliance on the same learned counsel for the petitioner seeks release inter alia on the ground of parity.

8. Learned counsel for the State opposing such prayer for bail submits that since there are other witnesses to be examined it would not be prudent to rely on the statements annexed to the bail application though it is not disputed that the said witnesses have not supported the prosecution.

9. Taking into account the release of the co-accused and the witnesses noted in the order of rejection, who have not supported the prosecution and the non-mentioning of the name of the petitioner in the FIR, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin of the matter.

10. Accordingly, the BLAPL stands disposed of.

11. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge

Santoshi