

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4587 of 2021

Suresh Podh

....

Petitioner

Mr. Satyabrata Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Miss. Samapika Mishra, ASC

CORAM:

MR. JUSTICE D.DASH

ORDER

18.10.2022

Order No.

01. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
2. This is the successive journey of this petitioner, who is in custody in connection with Gaisilat P.S. Case No.69 of 2018 corresponding to C.T. Case No.01 of 2019 pending in the Court of the learned Additional Sessions Judge, Padampur for offence punishable under sections 450/302/294/336/323/34, I.P.C. in filing this application under section 439, Cr.P.C. for his release on bail.
3. Learned counsel for the Petitioner submits that this Petitioner being portrayed as the author of the fatal injury by means of sharp cutting weapon on the vital part of the body of the deceased has been arrested and is in custody since 09.06.2018. Placing the statements of the witnesses recorded in course of investigation, he, however, submits that there was no prior planning for the incident and admittedly, the members of the family of the Petitioner and the members of the family of the Informant were having long standing dispute and untoward incidents too had happened even before this incident giving rise to the criminal cases. He, under instruction, submits that as yet after framing of charge, no witness has been examined from the side of the prosecution in the trial

when other co-accused persons have been released on bail and it is also not stated that they have abused the liberty so granted in any manner. In view of all these above, he submits that taking the totality of the facts and circumstances leading to the incident along with the role of the Petitioner, it would not be in the interest of justice for his detention till conclusion of trial when there arises no scope on his part to flee from justice and the question of tampering the evidence too does not arise. He, therefore, urges for reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned counsel for the State opposes the move. According to her, the Petitioner has been directly implicated to have caused the fatal blow upon the deceased which has led to his instantaneous death and in view of that it would not be permissible to say that the Petitioner had not intended to cause the death of the deceased as clearly falls under clause thirdly of section 300 of the I.P.C.

5. Considering the submissions as advanced and on going through the materials as placed; further keeping in view the surrounding circumstances including the factum of detention of the petitioner in custody since 09.06.2018 and grant of bail to the co-accused persons; 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 with such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that:-

- (i) he will appear in person before the court in seisin of the case on each date of posting of the case till conclusion of the trial;
- (ii) will appear before the Inspector-in-Charge of Gaisilat P.S. on every Monday in between 10.00 a.m. to 2.00 p.m. till conclusion of trial;
- (iii) will not threaten or terrorize the prosecution witnesses in any manner;

- (iv) will not indulge himself in any criminal activity; and
 - (v) will not leave the jurisdiction of the Court in seisin of the case without prior permission of the court.
6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

(D. Dash)
Judge

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