

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5852 of 2022

***Bapi Barika @ Purusottam Petitioner
Manna***

Mr. S. Swain, Advocate

-versus-

State of Odisha Opp.Party

*Mrs. Susamarani Sahoo
Addl. Standing Counsel*

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

**ORDER
22.12.2022**

Order No.

05. 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 C.T. Case No.11 of 2022 arising out of Khandagiri P.S. Case No.823 of 2020 pending in the Court of learned Additional Sessions Judge, Bhubaneswar for offence punishable under section 395 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of learned 3rd Additional Sessions Judge, Bhubaneswar, which was rejected on 18.05.2022.

Learned counsel for the petitioner submitted that the

petitioner is in judicial custody since 15.12.2020 and the earlier bail application of the petitioner in BLAPL No.1681 of 2021 was rejected as per the order dated 01.12.2021 as the petitioner has been identified in the test identification parade, however, liberty was granted to the petitioner to renew the prayer for bail after examination of the identifying witnesses in the trial Court.

Since there are two identifying witnesses in the case, namely, Rajendra Nayak and Siba Prasad Nayak, as per the order dated 02.12.2022, the Inspector in-charge of Khandagiri police station was directed to ensure the attendance of those two witnesses in the trial Court for recording of their evidence after receiving summons from the learned trial Court.

Learned counsel for the petitioner submitted that in pursuance of such order, Rajendra Nayak and Siba Prasad Nayak have been examined as P.Ws.3 and 4 respectively and though in Court, both of them identified the petitioner but P.W.3 has stated that on receiving message about the recovery of the stolen vehicle from the police, he went to the police station and found his stolen vehicle in the police station premises and at that time, he had seen the petitioner in the police station. It is contended by the learned counsel for the petitioner that since P.W.3, who is the informant in the case got the opportunity to see the petitioner in the police station prior to holding the test identification parade, the test identification parade loses its sanctity and no reliance was placed on such identification.

Learned counsel for the State was served with the

copies of depositions of the witnesses.

Considering the submissions made by the learned counsel for the respective parties, the period of detention of the petitioner in judicial custody and the nature of evidence adduced so far in the trial 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 subject to condition that the petitioner shall appear before the learned trial Court on each date when the case would be posted for trial.

Violation of any terms and conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

RKM