

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.5060 OF 2021

Shaik Siraj

.... ***Petitioner***
Mr.P.S. Nayak, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. G.N. Rout, ASC.

CORAM:
MR. JUSTICE D.DASH

ORDER
16.05.2022

Order No.

- 04.
1. The matter is taken up through hybrid arrangement (virtual/physical) mode.
 2. This is the successive journey of the Petitioner who is in custody in connection with Nabarangpur P.S. Case No.322 of 2017 corresponding to C.T. Case No.41 of 2018 on the file of learned Sessions Judge-cum-Special Judge, Nabarangpur for alleged commission of offence under Section -450/302/120-B/212/34 of the IPC read with Section- 27 of the Arms Act, in filling this application under section 439, Cr.P.C. for his release on bail in the above mentioned case.
 3. Learned Counsel for the Petitioner submits that the star witness for the prosecution namely, Isika Modi by now has examined in the trial as P.W.12 and the co-accused, Shaik Sitab, who is similarly situated with the Petitioner in so far as the allegations are concerned as also the evidence on record is on bail. He further submits that the Petitioner has remained in custody for about three years by now and his delay in

appearance in the case was because he was not named in the F.I.R. and the charge-sheet had been filed simply showing him as an absconder. In view of all these above, when there remains no scope on his part to flee from justice as he is a permanent resident of the district of Nabarangpur and at this stage the question of tampering the evidence does not arise; he urges for reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned Counsel for the State opposes the move. According to him, this Petitioner does not at all stand in the same footing as those of the co-accused persons who are on bail. He submits that when the prosecution case is that one accused assaulted the deceased by sword which has led to the death, this Petitioner is projected as that very assailant; when it is said that other accused persons although had entered had not participated in that manner. In this connection, inviting the attention of this Court to the orders passed by this Court in BLAPL No. 3830 of 2018 and BLAPL NO.1396 of 2018, he submits that this Petitioner having been identified by P.W.12 had been so arraigned in the charge-sheet as he then resorted to abscondance and that with much difficulty his presence has been secured.

5. Considering the submissions made and on going through the materials on record including the depositions of the witnesses so far examined in the trial as also viewing other surrounding circumstances; I am not inclined to reconsider the prayer for grant of bail to the Petitioner at this stage, when the trial has crossed mid way.

Accordingly, while rejecting the prayer for reconsideration of the grant of bail to the Petitioner, it is observed that the Trial Court would do well to take all such effective steps as provided in law for early conclusion of the trial, preferably within a period of six months from today and in the event, within the period, the trial is not concluded, the Petitioner if so advised may renew his prayer for reconsideration of the prayer for grant of bail.

5. The BLAPL is accordingly disposed of.

Issue urgent certified copy as per rules.

**(D. Dash),
Judge.**

Narayan

