

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5361 of 2021

Niku @ Netrananda Majhi

....

Petitioner

M/s.S.C.Mohapatra, Advocate

-versus-

State of Orissa

....

Opp. Party

M/s.P.Tripathy, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

19.09.2022

Order No.

- 04.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Titilagarh P.S. Case No.305 of 2018 corresponding to G.R. Case No.466 of 2018 after commitment renumbered as S.T. Case No. 13 of 2019 pending in the Court of learned Addl. Sessions Judge, Titilagarh for commission of offence punishable U/Ss. 147/148/307/302/201/109/294/506/149 of I.P.C. on the allegation of stabbing the deceased to death by means of a knife as well as attempted to kill one Rohita by attacking him with the said knife.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that out of seven co-accused persons, three co-accused each have been granted bail by the learned Court in seisin of the case as well as by the orders of this Court and the present petitioner has been detained in custody since 27.09.2018, by which he is seriously prejudiced for trial having not commenced till today. It is also submitted that one of the co-accused Mahadeb Mallick standing on same footing has also been granted bail and the present petitioner having falsely implicated in this case, may be released on bail by

extending the principle of parity. Learned counsel for the petitioner while praying for release of the petitioner on bail on the principle of parity relies on the order passed on 20.8.2020 by this Court in BLAPL No. 2464 of 2020 (Bikash Duria Vrs. State of Odisha).

4. On contrary, learned counsel for the State submits that the present petitioner does not stand on similar footing with that of the co-accused released on bail and the present petitioner is the prime accused in this case and he has allegedly assaulted the deceased on the chest and the corresponding injuries as found in the post mortem report of the deceased disclose a prima facie case against the petitioner for committing murder of the deceased. Hence, the petitioner is not entitled to release him bail.

5. Considering the submissions advanced on behalf of the parties and taking into consideration the nature and gravity of offences, especially the specific allegation raised against the petitioner for stabbing the deceased and the corresponding injuries as found in the post mortem report of the deceased and taking into consideration other material allegations in support of the charge and the specific role attributed to the petitioner for the commission of alleged crime, the petitioner cannot be equated with co-accused to be released on bail on the principle of parity.

6. While granting bail, the Court has to keep in mind not only the nature of accusations but also the enormity of punishment that entails in conviction for the offences and in this case, the petitioner was alleged to have committed offences U/S. 302/307 of I.P.C. which prescribes capital punishment. Further, a perusal of the allegations on record would itself go to indicate a prima facie case against the petitioner for the offences U/S. 302/307 of the I.P.C and other offences and thereby,

the bail application of the petitioner cannot be considered favourably. Accordingly, the prayer for bail of the petitioner stands rejected.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge

Kishore

