

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6435 of 2022

Jubaraj Nayak @ Budha

....

Petitioner

Ms. S. Patro, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

09.09.2022

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 G.R. Case No.1387 of 2021 corresponding to S.T. Case No.2 of 2022 pending in the file of learned 1st Additional Sessions Judge, Berhampur, Ganjam arising out of Berhampur Sadar P.S. Case No.272 of 2021, offence under Sections 302/120-B/34 of IPC read with Section 25(1)(B) (b)/27(3) of Arms Act and is in custody since 18.08.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned 1st Additional Sessions Judge, Berhampur, Ganjam by order dated 13.06.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner inter alia submits that in view of the acquittal of the co-accused Jaganath Barik by this Court

in BLAPL No.2195 of 2022, since the present petitioner is similarly circumstanced his further continuance in custody is unwarranted. Admittedly, charge sheet has been filed in the meanwhile.

6. Learned counsel for the State opposes the prayer inter alia on the ground that there are eye-witnesses account which implicate the petitioner.

7. This Court had occasion to consider the eye-witness account of one Rajendra Dakua, Naina Sahoo, Krushna Ch. Sahoo and Bhima Sahoo cited as charge sheeted witnesses 9 and 18-20. On perusal of the materials it is seen that there are vividly described the manner in which the assault has been made by the present petitioner and the other co-accused Hina, Nalu and Tuna Nayak.

8. It is borne out from the post mortem report that injuries correspond to the assault as alleged.

9. On a consideration of the witnesses account, it is seen that the Jaganath Barik the co-accused is not similarly circumstanced with the present petitioner, as rightly pointed out by the learned Public Prosecutor.

10. Taking note of the eye-witness account which unerringly refer to the role played by the petitioner along with other accused named herein above. This Court is not inclined to entertain this bail application. The bail application thus stands rejected.

11. Accordingly, the BLAPL stands disposed of.

12. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Santoshi