

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5719 of 2021

Biranchi Jani and another ***Petitioners***

Mr. B. Mohapatra, Advocate

-versus-

State of Odisha ***Opposite Party***

Ms. S. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
19.04.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioners and learned counsel for the State.
3. The petitioners are the accused in S.T. Case No.27 of 2021, on the files of learned Additional Sessions Judge, Bhanjanagar, arising out of Tarasingh P.S. Case No.106 of 2017, under Sections 302/34 of IPC and is in custody since 14.01.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Court of Additional Sessions Judge, Bhanjanagar, by order dated 29.06.2021 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioners submits that the co-accused who faced trial have been acquitted in the meanwhile and also the petitioners are similarly circumstanced and his further continuance in custody is not warranted in fact, is punitive.

6. The learned counsel for the State opposes the prayer for bail submitting that acquittal of the co-accused cannot be a ground to be considered at a stage of consideration of exercise of jurisdiction under Section 439 Cr.P.C.

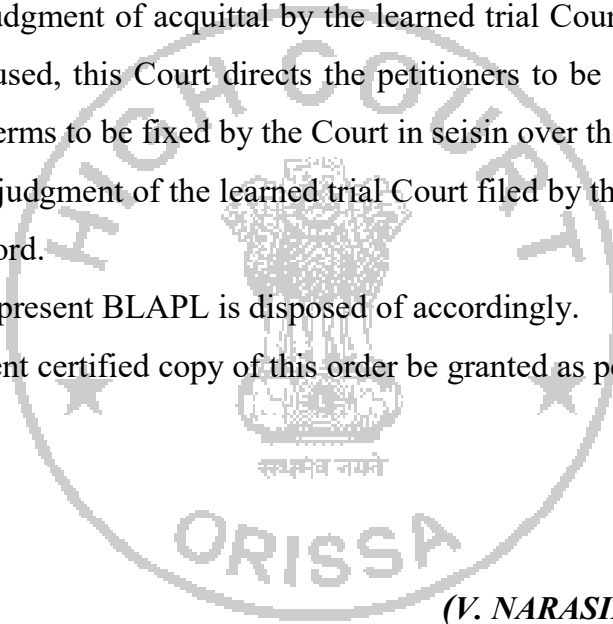
7. Perused the judgment passed by the learned Additional Sessions Judge Bhanjanagar, District of Ganjam dated 05.01.2022 in S.T. Case No.194 of 2017 by which the co-accused Syama Jani, Ekalabya Jani and Debaraj Jani were acquitted.

8. Keeping in view, the nature of allegations and taking into account the judgment of acquittal by the learned trial Court in respect of the co-accused, this Court directs the petitioners to be released on bail on such terms to be fixed by the Court in seisin over the matter.

9. The judgment of the learned trial Court filed by the petitioner is kept on record.

10. The present BLAPL is disposed of accordingly.

11. Urgent certified copy of this order be granted as per rules.



(V. NARASINGH)

Judge

Santoshi