

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 6754 of 2022

Ganesh Samantaray @ Pabitra ***Petitioner***

Mr. M.K. Chand, Advocate

-versus-

State of Odisha ***Opposite Party***

Mr. M. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

08.12.2022

Order No.

04.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in S.T. Case No.29 of 2022, pending in the file of learned 1st Additional Sessions Judge, Khurda, arising out of Jankia P.S. Case No.102 of 2017, for commission of alleged offences under Sections 147/148/341/323/302/325/506/149 of IPC and is in custody since 26.02.2022.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned 1st Additional Sessions Judge, Khurda by order dated 07.07.2022 in the aforementioned case, the present BLAPL has been filed.
4. Learned counsel for the petitioner basing on the FIR and the charge sheet submits that one Sadhu Charan Champaty was an eyewitness to the incident along with one Bipin Samantaray who had named the petitioner as the assailant.

5. Learned counsel for the petitioner has placed on record the names of Sadhu Charan Champaty examined as P.W.1 and Bipin Samantaray examined as P.W.5.
6. On perusal of the same it is seen that they resiled from their statement.
7. Learned counsel for the State opposes the prayer for bail inter alia on the ground that there are other witnesses and as trial has already commenced, release of the petitioner at this stage will affect the ongoing trial.
8. Taking into account the basis of allegation and as both the witnesses have not supported the prosecution notwithstanding the number of injuries suffered by the deceased, this Court is persuaded to direct the release of the petitioner on bail. Terms to be fixed by the learned Court in seisin and also taking into account the memo filed by the learned counsel for the petitioner on instruction that petitioner has no criminal antecedent.
9. Before releasing the petitioner the learned Court in seisin is called upon to verify the assertion regarding his criminal antecedent. If it comes to the fore that petitioner has criminal antecedents of similar nature, this order shall stand recalled.
10. Accordingly, the BLAPL stands disposed of.
11. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge