

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7005 of 2022

Chiku Sethy

....

Petitioner

Mr. A.K. Nath, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

09.12.2022

Order No.

04.

1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in C.T (Sessions) Case No.175 of 2022, pending on the file of learned Sessions Judge, Angul, arising out of Chhendipada P.S. Case No.162 of 2018 for commission of the alleged offence under Sections 302/201/34 IPC.

3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge, Angul by order dated 15.07.2022 in the aforementioned case, the present BLAPL has been filed.

4. Learned counsel for the Petitioner submits that the Petitioner is in custody since 22.06.2022 and charge sheet has already been filed on 15.11.2020 showing him as an absconder.

5. He further submits that though before filing of the charge sheet, the Petitioner was examined by the Police but for extraneous reasons, he has been shown as an absconder. He further submits

that the only basis of implication is circumstantial evidence and last scene theory.

6. It is also stated that there are too many gaping holes in the prosecution case and only because he is the relation of the principal accused Keshan Sethy, he has been arrayed as an accused. In this connection, learned counsel for the Petitioner relies on the statement of Lipika Sethy, who is the sister of the deceased. He further submits that since charge sheet has been filed in the meanwhile, his further continuance in custody is not warranted.

7. Learned counsel for the State was called upon to verify the CDR which sought to be relied on by the prosecution.

8. Learned counsel for the State, relying on the CDR, submits that there are materials to show that the accused Keshan Sethy was in constant touch with the deceased and it is stated therein that no material to show that the Petitioner was in touch with the principal accused.

9. Considering the period of custody and the nature and the manner of accusation and the C.D.R, this Court directs release of the Petitioner on bail. Terms to be fixed by the learned Court in seisin.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS