

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7114 of 2022

Tukuna Swain

....

Petitioner

Mr. D. Senapati, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
22.11.2022

Order No.

02.

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 connection with G.R. Case No.29 of 2021, pending on the file of the learned J.M.F.C., Kabisuryanagar, arising out of Kabisuryanagar P.S. Case No.29 of 2021, for alleged commission of offences under Section 320/34 of IPC.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional District & Sessions Judge, Kodala, Ganajam, by order dated 20.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that the petitioner surrendered on 20.07.2022 and charge-sheet has been filed on 30.06.2021, showing him as an absconder and in view of

the release of the co-accused Govinda Senapati, who had greater complicity, by order dated 17.03.2022, further continuance of the petitioner in custody is unwarranted.

6. Learned counsel for the State opposes the prayer inter alia on the ground that the petitioner is not similarly circumstanced and he relies on the statement of the informant Dhoba Rout, who accompanied the deceased and witness Suresh Paramanik who stated about the ransom being demanded by Govinda Senapati at the instance of one Jogi, who is in custody.

7. Learned counsel for the State also relies on the statements of Dandapani Nahak and Sankar Sahu, witness to confession of the co-accused Govinda Senapati, who has since been released on bail and of the co-accused Mantu Padhiali.

8. This Court examined the statement of the witnesses, statement of the informant, who is an eye witness and the other statements. Ex facie the statements relied upon by the prosecution are not admissible.

9. Taking into account the release of the co-accused Govinda Senapati at whose instance the weapon of offence was recovered and there being no other statement to establish the link between the offence and the petitioner, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter.

10. Considering the criminal proclivity of the petitioner as pointed out by the learned counsel for the State, it is directed that the petitioner shall appear before the jurisdictional police station once every week till conclusion of trial.

11. It is needless to say that the order passed herein shall not ennure to the benefit of the co-accused, whose bail application has to be considered on its own merits.
12. Accordingly, the BLAPL stands disposed of.
13. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Ayesha

