

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7617 OF 2019

Ganesh Patra

..... *Petitioner*
Mr. S.K. Patnaik, Adv.

-versus-

State of Odisha

..... *Opposite Party*
Mr. K.K. Gaya, ASC

CORAM:
JUSTICE V. NARASINGH

ORDER
07.03.2022

Order No.
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1. This matter is taken up through Hybrid Mode.
2. Heard Mr. S.K. Patnaik, learned counsel for the petitioners and Mr. K.K. Gaya, learned Additional Standing Counsel for the State.
3. Perused the impugned order dtd. 19.08.2019 passed by the learned Additional Sessions Judge, Chhatrapur in S.T. Case No. 86 of 2019 by which the Bail Application of the present petitioner i.e., Ganesh Patra was rejected.
4. It is urged with vehemence by the learned counsel for the petitioner that, the petitioner who is in custody since 16.12.2018 is not one of the 8 accused named in the F.I.R. and out of 9 persons whose statements were recorded during the course of

investigation under Section-161 Cr.P.C. 7 did not name the petitioner. Two witness namely- Upendra Parida and Rajesh Mohanty have given exaggerated version of the incident and role played by the present petitioner and in fact the death is due to the blow given by stone by absconding accused-Subash Parida.

5. It is also stated by the learned counsel for the petitioner that, subsequently Sri Rajesh Mohanty was further examined on 22.02.2020 wherein he has not whispered anything against the present petitioner. It is also stated that during course of further investigation it has come to the fore that the gun shot injury is attributable to one Rampal who confessed to the crime.

6. It is submitted that since the petitioner is similarly circumstanced with the six (6) accused persons namely-1- Baburam Biswal, 2. Suresh Ch. Pandi, 3. Sanjay Khuntia, 4. Jati Krushna Pandi, 5. Rajat Kumar Parida and 6. Dipti Ranjan Bhujabala, who have been granted bail, the petitioner should be enlarged on bail.

7. It is also urged by the learned counsel for the petitioner that by the impugned order, learned Sessions Judge had considered the bail applications of two accused persons namely Pintu @ Diptiranjan Bhujabala and the present petitioner, And this Court having released the other petitioner before the Additional Sessions Judge namely Pintu @ Diptiranjan Bhujabala on bail, the

present petitioner is entitled to be released on bail, on the ground of parity.

8. Learned Counsel for the State relying upon the statements of Rajesh Mohanty, Simanchal Pal and Puja Parida, opposes the application for bail.

9. It was also contended by learned counsel for the State that other co-accused persons who have been released on bail are not similarly circumstanced with the present petitioner.

10. Having heard the learned counsel for the petitioner and learned counsel for the State and on going through the statement of Rajesh Mohanty and on consideration of the Post Mortem Report, this Court is not inclined to grant the prayer of the petitioner under Section-439 Cr.P.C. The Court also does not find any merits in the contention of the learned counsel for the petitioner that, there has been dilution of the accusation vis-a-vis the petitioner in the subsequent statement of Rajesh Mohanty. On verification of record, it is seen that the petitioner is not similarly circumstanced with the other six accused persons who have since been released on bail.

11. Accordingly, the bail application stands rejected.

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

(V.Narasingh)
Judge

