

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.6407 of 2021

<i>Kamal Lochan Gamnga</i>		<i>Petitioner</i> <i>Mr. Ashok Das, Adv.</i>
-versus-		
<i>State of Odisha</i>		<i>Opposite Party</i> <i>Mr. D. Mund, AGA</i>

CORAM:
DR. JUSTICE S.K. PANIGRAHI

Order
No.

ORDER
21.12.2022

16. 1. This matter is taken up through hybrid arrangement.
2. Heard learned counsel for the Petitioner and learned Additional Government Advocate for the State.
3. The Petitioner is in custody in connection with S.T. Case No.5 of 2021, arising out of Pattapur P.S. Case No.115 of 2020, pending in the court of the learned 2nd Additional District and Sessions Judge, Berhampur for the alleged commission of offences under Sections 342/ 364/ 302/ 201/ 120B/ 34 of the I.P.C., has filed this application under Section 439 of the Cr.P.C. for his release on bail.
4. The allegation of the prosecution is that Kalinga Kumar Das lodged a written compliant alleging therein that on 23.05.2020 at about 2.30 PM, his nephew namely Bibhu

Prasad Das went to Sriram Nagar near Taptapani with two of his friends namely Udhab Gouda and Gangadhar Patra by a car from Sastri Nagar, Berhmapur being called by one Tarini Mandal. It was further alleged that on the same day, Tarini Mandal, Tukuna Mandal and their co-workers took his nephew to the forest. Since then, his nephew has been missing. Despite frantic search made, he was untraced. The aforesaid accused persons assaulted to Gangadhar Patra and also threatened him. Gangadhar Patra somehow managed to escape from their clutch and returned to home. Further, it was alleged that Udhab also returned to his village by hiding himself and on 26.05.2020, they informed to the informant about the incident.

5. Learned counsel for the Petitioner submits that the Petitioner is in custody since 08.06.2020. Learned counsel for the Petitioner further submits that out of 45 witnesses, eight witnesses have been examined. He further submits that there is no eye witness to the occurrence of murder of the deceased and the injured, namely, Gangadhar Patra has not stated anything about involvement of the present Petitioner.

6. Learned counsel for the State vehemently opposes the prayer for bail of the Petitioner. He submits that the

Petitioner's earlier prayer for bail was rejected vide order dated 10.02.2020 passed in BLAPL No.5341 of 2020. He further submits that since there is no change of circumstance, successive application for bail filed by the Petitioner is not maintainable.

7. Considering the submissions made by the learned counsel for the parties and the nature and gravity of accusation, conduct of the Petitioner, character of supportive materials appearing against the Petitioner in support of the charge, circumstances, in which the offence alleged to have been committed and heinousness and seriousness of the offence alleged and there is no change of circumstance, this Court is of the view that the Petitioner does not deserve to be released on bail. Hence, his prayer for bail stands rejected.

8. Accordingly, the BLAPL is disposed of being dismissed.

(Dr. S.K. Panigrahi)
Judge

B.Jhankar