

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7891 of 2022

Hari Sagaria

....

Petitioner

Mr. J.K. Khuntia, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

13.09.2022

Order No.

01.

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 accused in Machhkund P.S. Case No.6 of 2015 corresponding to G.R Case No.141 of 2015, in the file of the learned S.D.J.M., Koraput and subsequently turned to CT Case No.81 of 2022 pending in the Court of learned Additional Sessions Judge, Koraput, for alleged commission of offences under Sections 450/342/376(D) of IPC.
4. Being aggrieved by the Rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Koraput, by order dated 22.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. Perused the order of rejection.

6. Perused the 164 Cr.P.C. statement and the deposition of the victim (P.W.4).

7. It is submitted by the learned counsel for the petitioner that the principal accused Laxmidhar @ Lachu Khilla faced trial has been acquitted by judgment dated 16.08.2018 by the learned Additional District & Sessions Judge, Koraput in Criminal Trial Case No.101 of 2015.

8. It is further submitted that the basis of implication of the petitioner is on account of co-accused statement and that the entire allegations against the present petitioner even accepted at the face value is that he had helped the principal accused in committing the offence.

9. Hence it is submitted that his further continuance in custody is unwarranted and it is also stated that non submission to the process of law was on account of supervening circumstances and it was not intentional.

10. Learned counsel for the State opposes the prayer for bail relying on the cardinal principle that complicity of an accused is to be tested on the veracity of the statement of witnesses who have been examined vis-à-vis the accused in the dock. Since the present petitioner has not faced the trial, the acquittal of the co-accused would not enure to his benefit.

11. Taking into account the nature of allegations vis-à-vis the petitioner and acquittal of the principal accused as borne out from the order of rejection, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court to ensure his presence on each date of trial.

12. Additionally it is directed that the petitioner shall appear before the jurisdictional police station once every week till conclusion of the trial.
13. Accordingly, the BLAPL stands disposed of.
14. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Ayesha

