

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.8303 of 2022**

***Kalu Bahadur***

***....***

***Petitioner***

*Mr. M.K. Chand, Advocate*

*-versus-*

***State of Odisha***

***....***

***Opp. Party***

*Mr. Arupananda Das,  
Addl. Government Advocate*

**CORAM:  
JUSTICE S.K. SAHOO**

**ORDER  
22.11.2022**

**Order No.**

02. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Learned counsel for the petitioner files deposition copies of witnesses and also comprehensive affidavit relating to the criminal antecedents against the petitioner in Court today giving copy thereof to the learned counsel for the State which are taken on record.

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application for bail under section 439 of Cr.P.C. in connection with Hirakud P.S. Case No.180 of 2019 corresponding to S.T. Case No.30 of 2021

pending in the Court of learned Sessions Judge, Sambalpur for offences punishable under sections 294/307/34 of the Indian Penal Code.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 28.08.2019 and his earlier bail application in BLAPL No.4453 of 2020 was rejected as per order dated 09.02.2021 mainly relying on the eye witness account of Pintu Kalet and liberty was granted to the petitioner to renew the prayer for bail after examination of the said eye witness in the trial Court. Learned counsel further submitted that in the meantime, trial has commenced and Pintu Kalet @ Birendra Kalet has been examined as P.W.1 and he has not supported the prosecution case, for which he was declared hostile.

Learned counsel for the State after verification of the case record on 21.10.2022 submitted that there are three more eye witnesses to the occurrence, namely, Loknath Banchor, Gopi Behera, Tuna Behera so also two witnesses to the dying declaration, namely, Sabitri Behera and Nalita Behera who are yet to be examined and accordingly, the Inspector in-charge of Hirakud police station was directed to appear before the learned trial Court to receive summons in respect of the those witnesses and ensure their attendance on the date fixed.

Learned counsel for the petitioner submitted that the aforesaid five witnesses have already been examined as P.Ws.6 to 10 and though P.W.7 stated about the dying declaration of the deceased in which the petitioner and other co-accused persons have been implicated but the other witnesses i.e., P.Ws.8, 9 and 10 have turned hostile and P.W.6 who stated about the dying declaration but in the dying declaration, she has not implicated the petitioner. It is submitted that in view of the change in the circumstances and the period of detention of the petitioner in judicial custody, the bail application of the petitioner may be favourably reconsidered.

Learned counsel for the State opposed the prayer for bail.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced by the prosecution so far in the trial Court, the change in the circumstances after rejection of the earlier bail application and the period of detention of the petitioner in judicial custody, I am inclined to reconsider the prayer for bail and direct the petitioner to be released on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the

Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper subject to conditions that the petitioner shall appear before the learned trial Court on each date when the case would be posted for trial and shall not indulge in any criminal activities and shall not try to tamper with the evidence and shall appear before the Inspector in-charge of Hirakud police station once in a week on every Sunday in between 10.00 a.m. to 4.00 p.m. till the conclusion of the trial. Violation of any of the conditions shall entail cancellation of bail.

Violation of any terms and conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

( **S.K. Sahoo** )  
**Judge**