

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7450 of 2021

Bahan Khatei

....

Petitioner

Mr.A. Das, Advocate

-versus-

State of Odisha

....

Opp. Party

*Mr.D.K. Pani,
Addl. Standing Counsel
Mr. R.R. Samantray
(for informant)*

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

**ORDER
31.03.2022**

Order No.

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

Heard the learned counsel for the petitioner and learned counsel for the State as well as learned counsel for the informant.

This is an application under section 439 of Cr.P.C. for grant of bail to the petitioner in connection with S.T. Case No.21/101 of 2020 arising out of Fategarh P.S. Case No.178 of 2019 pending in the Court of learned Addl. Sessions Judge, Nayagarh for commission of offences under sections 294, 364, 506, 302, 120-B, 317, 34 of the Indian Penal Code.

The prayer for bail of the petitioner was rejected by the learned Sessions Judge, Nayagarh vide order

dated 11.08.2021.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 29.11.2019 and his first bail application before this Court in BLAPL No.420 of 2020 was rejected as per order dated 21.10.2020 taking into account of the statement of the eye witness Jadunath Samantray. The second bail application of the petitioner in BLAPL No.3200 of 2021 was also rejected as per order dated 29.06.2021 on the ground that there is no change in the circumstances. The learned counsel for the petitioner further submitted that in the meantime, the aforesaid witness Jadunath Samantray has been examined as P.W.1. As on date out of 15 witnesses, only three witnesses have been examined. Learned counsel for the petitioner further submitted that co-accused Tapas Jena has been released on bail by this Court in BLAPL No.10394 of 2021 as per order dated 21.01.2022 and similarly co-accused Ashok Khatei has been released on bail in BLAPL No.4415 of 2020 as per the order dated 16.03.2021 and therefore, the bail application of the petitioner may be favourably considered.

Learned counsel for the State while not disputing the release of the co-accused persons on bail, opposed the prayer for bail mainly on the ground that the petitioner stands on a different footing than the co-accused persons who are enlarged on bail.

Mr. R.R. Mohapatra, learned counsel appearing for the informant also opposed the prayer for bail.

Perused the evidence of P.W.1, Jadunath Samantray who is a witness to the first part of the occurrence and the deceased was taken away by the accused persons including the petitioner, co-accused Tapas Jena and Ashok Khatei in different vehicles i.e., scooty and motorcycle.

The learned counsel for the State has not disputed that after the deceased was taken away, the dead body was near Achhina Gachha, a place outside the village of the deceased and nobody has seen the actual commission of murder of the deceased at that place.

Considering the submissions made by the learned counsel for the respective parties, the nature of accusation against the petitioner, the evidence adduced so far in the trial Court, release of the co-accused persons on bail, 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 a bail bond of Rs.50,000/- (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with further conditions as the learned Court

may deem just and proper subject to further conditions that he shall not indulge in any criminal activities, he shall appear before the learned trial Court on each date when the case would be posted for trial and he shall not try to tamper with the evidence. Violation of any terms and conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

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