

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8466 of 2022

Abhimanyu Behera

....

Petitioner

Mr. A. Mohanty, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
28.09.2022

Order No.

02.

1. This matter is taken up through hybrid mode.
2. Heard Mr. A. Mohanty, learned senior counsel for the petitioner assisted by the Mr. D. Mohanta and Mr. P.K. Maharaj, learned Additional Standing Counsel for the State and Mr. S. Mishra learned counsel for the informant.
3. The petitioner is an accused in G.R. Case No.733 of 2022, pending in the file of learned J.M.F.C.(P) Kujang, arising out of Paradeep P.S. Case No.231 of 2022, offence under Sections 341/323/294/326/307/120-B/506/34 of IPC.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional District and Sessions Judge, Kujang by order dated 26.08.2022 in the aforementioned case, the present BLAPL has been filed.
5. Allegation against the present petitioner is that at his behest co-accused Sahadev Mallick has assaulted the injured Sri Prafulla Khatua.

6. It is submitted by the learned senior counsel relying on the order passed by the learned Additional District and Sessions Judge, Kujang, Jagatsinghpur dated 20.09.2022 in BLAP No.436 of 2022 that the co-accused has been released on bail. Hence it is stated that further continuance of the petitioner in custody is punitive.

7. Taking into account the submission made by the learned counsel for the informant Mr. Mishra regarding the health condition, learned counsel for the State was requested to obtain up-to-date instructions relating to the health condition of injured Sri Prafulla Khatua. The injured has in the meanwhile been discharge from Omm Suvam Hospital, Cuttack where he was admitted as an injured person.

8. It is submitted with vehemence by the learned counsel for the informant and the learned counsel for the State referring to the antecedents of the petitioner that since the petitioner has several antecedents of similar nature, he ought not be released on bail.

9. It is also further stated that the petitioner being Union leader weilds influence over others and using the same he is in a position to instigate others to commit crimes and case at hand is one of such instances.

10. It is also submitted by the learned counsel for the informant and learned counsel for the State that keeping in view the criminal proclivity of the petitioner releasing him on bail though being not the assailant will endanger the life of the informant and his supporters because of the cloot of the petitioner as a Union leader.

11. Additional affidavit filed by the informant indicating the antecedents of the petitioner is taken on record.

12. On a conspectus of the materials on record considering the rival submission of the parties, this Court is persuaded to direct release of the petitioner on bail.

13 The concern expressed by the State and informant can be deadily addressed by putting the petitioner to strict terms.

14. Accordingly it is directed that the petitioner shall be released on bail on such terms to be fixed by the learned Court in seisin over the matter.

15. Further it is direct that the petitioner shall appear before the jurisdictional police station once every week till the submission of charge sheet and shall not in any way try to intimidate informant and his family member.

16. It shall be open to the informant/the investigating agency to seek variance of this order in the event there is any overt act violating the orders passed by this Court.

17. Accordingly, the BLAPL stands disposed of.

18. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge

Santoshi