

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8470 of 2022

Sameer Sethy @ Haba @ Babu* *Petitioner

Mr.P.K. Pratap, Advocate

-versus-

State of Odisha* *Opp.Party

Mr.Arupananda Das
Addl. Government Advocate

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

**ORDER
11.11.2022**

Order No.

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

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

This is an application under section 439 of Cr.P.C. for grant of bail to the petitioner in connection with Badachana P.S. Case No.195 of 2020 corresponding to C.T. (Sessions) Case No. 25 of 2022 pending in the Court of learned Asst. Sessions Judge, Chandikhole for alleged commission of offences under sections 457, 395, 397/34 of the Indian Penal Code read with section 25/27 of the Arms Act.

The petitioner moved an application for bail before the Court of learned Asst. Sessions Judge, Chandikhole,

which was rejected on 19.08.2022.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 18.08.2020 and he has been charge sheeted under sections 457, 395, 397/34 of the Indian Penal Code read with section 25/27 of the Arms Act. It is further submitted that the first two bail applications of the petitioner in BLAPL No. 6319 of 2020 and BLAPL No. 750 of 2021 were rejected on the ground that the petitioner was identified in the T.I. parade and it is a case of dacoity. Learned counsel further submitted that on the ground of delayed disposal of the trial, the petitioner was granted interim bail for a period of three months in BLAPL No. 1771 of 2022 as per order dated 13.05.2022 and after availing the same, he surrendered at right time. Learned counsel further submitted that the informant Purnananda Mohanty is the identifying witness and he has been examined as P.W.1 in the learned trial Court and he failed to identify the petitioner in the dock. It is further submitted that there is no substantive evidence relating to the involvement of the petitioner in the crime in question and two of the co-accused persons, namely, Dhananjaya Singh @ Gudu and Manoj Kumar Mallick @ Mantu, who were also identified in the T.I. parade along with the petitioner have been directed to be released on bail in BLAPL No. 4849 of 2022 and BLAPL No. 5054 of 2022 respectively on the ground that the identifying witness Purnananda Mohanty (P.W.1) did not support the prosecution case. It

is further submitted that since the petitioner is similarly situated like that of the co-accused persons, who have been released on bail and in view of the conduct of the petitioner in complying with the earlier order of interim bail granted by this Court, the bail application of the petitioner may be favourably reconsidered. Learned counsel for the petitioner has filed the bail orders of the two co-accused persons so also the deposition of the informant, which are taken on record.

Learned counsel for the State has produced the case diary and fairly submitted that there is no criminal antecedent against the petitioner.

Considering the submissions of the learned counsel for the respective parties, since the identifying witness, who is the informant in the case being examined as P.W.1 has failed to identify the petitioner in the learned trial Court and two of the similarly situated co-accused persons have been enlarged on bail, the conduct of the petitioner in complying with the earlier order of interim bail granted by this Court and further taking into account the period of detention of the petitioner in judicial custody, I am inclined to reconsider the prayer for bail and direct release the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing 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 such terms and

conditions as the learned Court may deem just and proper including the conditions that the petitioner shall not indulge in any criminal activities, shall appear before the learned trial Court when the case would be posted for trial and shall not try to tamper with the prosecution witnesses. Violation of any of the conditions shall entail cancellation of bail.

BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

PKSahoo

