

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7269 of 2020

Siba Nahak

.... Petitioner

Ms. Shalaka Das, Advocate

-versus-

State of Odisha

.... Opp. Party

Mr. Rajesh Tripathy

Addl. Standing Counsel

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

**ORDER
29.09.2022**

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. in connection with Polasara P.S. Case No.123 of 2017 corresponding to S.T. Case No. 82 of 2020 pending in the Court of learned Addl. Sessions Judge, Kodala for offence punishable under section 302 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of Addl. Sessions Judge, Kodala, which was rejected on 18.08.2020.

Learned counsel for the petitioner submitted that

the petitioner is in judicial custody since 13.07.2017 and his earlier bail application in BLAPL No. 3136 of 2019 was rejected as per order dated 16.07.2019 taking into account the statement of the eye witness Laxmi Nahak, the widow of the deceased Sadhu Nahak and liberty was granted to the petitioner to renew his prayer for bail after examination of the said witness before the learned trial Court. Learned counsel further submitted that in the meantime, the eye witness Laxmi Nahak has been examined in the trial Court as P.W.3 and she has not supported the prosecution case. Learned counsel has filed the certified copy of the deposition of P.W.3, which is taken on record. She further submitted that in view of the evidence of the eye witness to the occurrence and change in the circumstances after rejection of the earlier bail application and taking into account the period of detention in judicial custody, the bail application may be favourably reconsidered.

Learned counsel for the State fairly submitted that the eye witness was turned hostile.

Considering the submissions made by the learned counsel for the respective parties, the change in the circumstances after rejection of the earlier bail application, the period of detention of the petitioner in judicial custody and the fact that the eye witness to the occurrence has not supported the prosecution case being

examined as P.W.3, 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 including the conditions that the petitioner shall appear before the learned trial Court on each date to which the case is posted for trial and shall not try to tamper with the prosecution evidence. Violation of any of the conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

PKSahoo