

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.7270 OF 2020

Sunil Kumar Pradhan

.... ***Petitioner***
Mr. S.S.Das, Sr. Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. D.R. Parida, ASC.

**CORAM:
MR. JUSTICE D.DASH**

ORDER
06.01.2022

Order No.

- 05.
1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
 2. This is the second journey of the Petitioner, who is in custody in connection with Polasara P.S. Case No.62 of 2017 corresponding to S.T. Case No.111 of 2020 (S.T. No.02 of 2019) arising out of G.R. Case No.109 of 2017, pending on the file of learned Addl. District Judge, Chatrapur running for the alleged commission of offence under section 302/120/34 of the IPC, in filing this application under section 439, Cr.P.C., for his release on bail in the above mentioned case.
 3. Learned Senior Counsel for the Petitioner submits that this Petitioner being arrested in the case is in custody since 13.05.2017, when co-accused who happens to be the wife of the deceased is on bail vide order passed by this Court in BLAPL No.9036 of 2017. He further submits that despite long period of detention of the Petitioner in custody the trial is not progressing

at the desired pace and as the prosecution is not showing that anxiety for early examination of witnesses, its conclusion is not expected to be so soon. He also submits that her although the two sons of the deceased have been projected as the eye witnesses in stating the roles said to have played by this Petitioner in the incident, yet those have come to be recorded two months after the incident and practically, the elder son who is aged about 15 years has not given any such explanation as regards his silence. In view of all these above, when there remains no scope on his part to flee from justice and tamper the evidence; according to him further detention of the Petitioner in custody till conclusion of the trial would serve no useful purpose. Therefore, he urges for grant of bail to the Petitioner.

4. Learned counsel for the State opposes the move. According to him, the eye witnesses who happen to be the sons of the deceased have implicated this Petitioner in clear terms as to have dealt fatal blows upon their father. He submits that viewing the fact that their mother is also an accused with this Petitioner, the Petitioner non-disclosure of the incident by those two sons for the period cannot be adversely viewed and it is also quite natural when they have further stated to have proceeded to their maternal grandfather's house. He however does not dispute the position that the Petitioner is in custody since 13.05.2017 and the trial is not fast progressing. According to him, for securing the presence of other accused persons, there has been delay in closure of the committal proceeding and the same is not attributable to the prosecution.

5. Considering the submissions made and on going through the materials as placed; further keeping in view the surrounding circumstances including the factum of detention of the Petitioner in custody; while being inclined to reconsider the prayer for grant of bail to the Petitioner; it is directed that the Petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the Court in seisin of the case with further conditions that that he will appear in person before the Court in seisin of the case on each and every date of posting of the case till conclusion of the trial; will appear before the IIC, Polasara P.S. every Monday in between 10 am to 3 pm till conclusion of the trial; will not threaten or terrorize the prosecution witnesses in any manner whatsoever; and will not leave the jurisdiction of Plasara P.S. till conclusion of the trial except on the date fixed before the trial Court and as would be so required to appear before the said Court.

Violation of any of the condition(s) shall entail cancellation of bail.

6. The BLAPL is accordingly disposed of.

Issue urgent certified copy as per rules.

**(D. Dash),
Judge.**

Narayan