

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8014 of 2021

Debasish Bhoi @ Bapi

....

Petitioner

Mr. Satyabrata Mohanty-1, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K. Mohanty, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

29.06.2022

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Bhanjanagar P.S. Case No.168 of 2009, corresponding to G.R. Case No.439 of 2009, pending in the file of learned S.D.J.M., Bhanjanagar, for commission of alleged offences under Sections 302/34 of I.P.C. r/w. Section 25(A) & 27 of the Arms Act, 1959
3. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the FIR, Case Diary and statement of witnesses.
4. It is submitted by learned counsel for the Petitioner that the Petitioner is languishing in jail custody since the date of his arrest, i.e. 15.12.2009 i.e. almost more than a decade. He further submits

that the trial has not commenced in the matter as of now nor a single witness has been examined in this case. He further submits that there are no eye witnesses to the occurrence. One person, namely, Asutosh Dash, who claimed to be an eye witness has not named the Petitioner. It is also submitted that FIR has been lodged against an unknown accused person. Learned counsel for the Petitioner submits that Petitioner is in custody since 2009 i.e. almost 13 years awaiting trial. It is also submitted by learned counsel for the Petitioner that the fundamental right of a citizen is violated and the right to speedy trial has also been violated. Learned counsel for the Petitioner draws attention of this Court to the rejection order dated 27.04.2021 submits that learned court below has opined that due to non-available of excerpt party, the petitioner cannot be produced before the court. It is further submitted that the accused approached this Court in CRLMP No.888 of 2020, disposed of on 04.09.2020, this Court directed learned S.D.J.M, Bhanjanagar to take effective steps to Commissioner within a period of one month from the date of communication of this order.

5. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner on the ground that the Petitioner is a habitual offender and is involved in serious offences in different courts. Therefore, no leniency should be shown to the Petitioner. Accordingly, he prays for rejection of his bail application.

6. Having regard to the facts and circumstances of the case, considering the nature and gravity of offences alleged and the materials on record as well as statement of the witnesses and further taking into consideration the period of detention and the trial has not

been commenced as yet, there is no likelihood that the trial will be started and will be concluded in the near future, this Court thus deems it proper to enlarge the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with two local sureties for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following terms and conditions:

- i) He shall not indulge in similar nature of offence;
- ii) He shall appear before the trial court on each and every date and shall cooperate for early conclusion of trial;
- iii) He shall not tamper with the prosecution evidence and shall not make any attempt to influence or threaten the witnesses;
- iv) He shall provide his address as well as his phone number to the concerned Police Station and keep the same updated in the event the same is changed in future;
- v) He shall appear before the concerned Police Station once in a week for two months thereafter he shall appear once in a fortnight preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of trial.
- vi) He shall not leave the jurisdiction of the court without prior permission of the trial court;

7. Violation of any of the terms and conditions shall entail cancellation of bail.

8. With the above direction, the BLAPL is accordingly allowed.

9. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge