

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9032 of 2022

Biswanath Naik @ Babulu

Petitioner

Mr. R. Behera, Advocate

-versus-

State of Odisha

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
27.09.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The Petitioner is an accused in G.R. Case No.686 of 2022 pending in the file of learned S.D.J.M., Athmallik, arising out of Thakurgarh P.S. Case No.175 of 2022, offence under Sections 450/395 IPC and Sections 25/27 of the Arms Act and is in custody since 09.08.2022.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Athmallik by order dated 03.09.2022 in the aforementioned case, the present BLAPL has been filed.
5. Perused the order of rejection.

6. It is submitted by the learned counsel for the Petitioner that the implication of the Petitioner was on the basis of the statement of the co-accused.

7. It is stated in Paragraph-6 of the bail application that the Petitioner has not been identified in the T.I Parade. Such averment is extracted hereunder;

“6..... In the meanwhile T.I Parade has been conducted but the Petitioner was not identified in the said T.I Parade.”

8. Hence, it is submitted that the Petitioner is in custody since 9.8.2022 and considering the same, further continuance of the Petitioner in custody is not warranted.

9. Learned counsel for the State submits that taking into account the nature of allegations and since the case has already been turned to Sections 450/395 IPC and Sections 25/27 of the Arms Act and when the investigation has not yet been concluded, the Petitioner ought not to be released on bail.

10. Considering the submission of the learned counsel for the parties and keeping in view the manner of implication, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned court in seisin over the matter. Additionally it is directed that the Petitioner shall appear before the I.O once every week till conclusion of the investigation.

11. While enlarging the Petitioner on bail, learned court below shall verify the assertion relating to criminal antecedents and non identification of the Petitioner in the T.I Parade. In the event it is found that any of such assertions to be dehors of record, this order shall stand recalled without further reference to the Court.

12. Accordingly, the BLAPL stands disposed of.
13. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

PKS

