

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9060 of 2022

Titoo @ Syed Usman Ali* *Petitioner

Mr.Milan Kanungo
Senior Advocate

-versus-

State of Odisha* *Opp.Party

Mr. Arupananda Das
Addl. Govt. Advocate

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

**ORDER
15.11.2022**

Order No.

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

Heard Mr. Milan Kanungo, learned Senior Advocate appearing for the petitioner and learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with Marshaghai P.S. Case No.92 of 2015 corresponding to S.T. Case No.366 of 2018 pending in the Court of learned Addl. Sessions Judge, Kendrapara for offences punishable under sections 302,120-B, 506/34 of the Indian Penal Code read with sections 25/27 of the Arms Act.

The petitioner moved an application for bail before the Court of learned Addl. Sessions Judge, Kendrapara, which was rejected on 06.09.2022.

Learned counsel for the petitioner submitted that the petitioner was taken on remand in this case on 28.07.2018 and as such, he has remained in custody for more than four years and three months by now. Learned counsel further submitted that even though the petitioner is facing trial, inter alia, for commission of the offence under section 302 of the Indian Penal Code, but no clinching evidence has come on record against the petitioner during trial. Learned counsel highlighting the custody certificate dated 14.07.2022, which was furnished by Senior Superintendent, Circle Jail, Berhampur while adjudicating another case in respect of the petitioner, submitted that six cases were pending against the petitioner. It is further submitted that in S.T. Case No. 358 of 2018, which was pending in the Court of learned Addl. Sessions Judge, Kendapara, the petitioner has been acquitted and the petitioner has been granted bail in S.T. Case No. 317 of 2018 pending in the Court of learned Addl. Sessions Judge, Kendapara. He further submitted that the earlier bail application of the petitioner in BLAPL No. 2714 of 2020 was disposed of as withdrawn. Learned counsel further submitted that in view of the period of detention of the petitioner in judicial custody and since no evidence is adduced by the prosecution in the learned trial Court as yet relating to the involvement of the petitioner in the alleged crime, the bail application of the petitioner may be favourably considered.

Learned counsel for the State after going through the deposition copies supplied by the learned counsel for the petitioner fairly submitted that most of the witnesses have not supported the prosecution case.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced by the witnesses so far in the learned trial Court and taking into account the period of detention of the petitioner in judicial custody, 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 he shall not indulge in any criminal activities and shall appear before the learned trial Court on each date to which the case would be posted for trial.

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