

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8077 of 2021

Ganesh Raula

....

Petitioner

Mr. T.K. Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

28.02.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard Mr. T.K. Mishra, learned counsel for the Petitioner and Mr. M.K. Mohanty, learned Additional Standing for the State. Perused the case record, F.I.R. as well as statement of the witnesses.

3. This is an application under Section 439 of the Cr.P.C. for bail arising out of Pottangi PS. Case No.103 of 2020 corresponding to G.R. Case No.1015 of 2020 pending in the court of learned Additional Sessions Judge, Koraput in C.T. Case No.40 of 2021 for the alleged commission of offences under Sections 302/379/201/34, I.P.C.

4. The prosecution story, as culled out from the F.I.R., is that on 03.11.2020, the 2nd son of the informant received a phone call at about 10.00 P.M. and thereafter he left house. When enquired about his whereabouts after some time by his brother, the deceased replied that he is talking to his friends and he will come back home soon. Again after fifteen

minutes when the informant tried to contact his deceased son, he found phone switched off. Upon getting information from one of the friends of the deceased, the informant went to the spot found the dead body of the deceased son near Ganesh temple at Pottangi.

5. The Petitioner was arrested in connection with the aforesaid case on 08.11.2020 and since then he is in custody. In the meantime, investigation has been concluded and charge-sheet has been submitted. The Petitioner moved an application for bail before the court below, which was rejected by order dated 09.08.2021.

6. Learned counsel for the Petitioner submits that the F.I.R. has been lodged against unknown accused persons and as such, the Petitioner has not been named in the F.I.R. and that the Petitioner is in judicial custody since 08.11.2020. It is further submitted by learned counsel for the Petitioner that the alleged occurrence took place on 03.11.2020 night and the F.I.R. was lodged on 04.11.2020 by the father of the deceased against unknown persons. It is further submitted by learned counsel for the Petitioner that there are no eye witnesses to the occurrence and that there are direct evidence to implicate the present Petitioner in the alleged crime. He further submits that the Petitioner is a resident of the locality and as such, there is no chance of absconding from the hands of justice and further in the event the Petitioner released on bail, he shall cooperate with the trial and appear before the trial court on each and every date in the trial.

7. Learned counsel for the State, on the other hand, relying upon the statement of some of the witnesses submits that although there are eye witnesses to the occurrence, but the facts of the present case in the alleged crime cannot be ruled out. He further submits that there are circumstances, which give indication that the present Petitioner had role in the alleged crime. He further expresses his apprehension in the event the Petitioner will be released on bail, he may not be appeared in the trial court as a

result of which the trial may not be concluded expeditiously.

8. Learned counsel for the Petitioner further submits that one of the co-accused persons, namely, Sunil Kumar Padhy, who was arrested on 07.11.2020, has been released on bail by this Court vide order dated 31.08.2021 passed in BLAPL No.852 of 2021. He further submits that the present Petitioner stands on better footing than the co-accused, namely, Sunil Kumar Padhy and as such, prays for release of the Petitioner on bail by applying the principle of parity.

9. Having heard learned counsel for the parties, considering the custodial detention of the Petitioner as well as nature of accusation against the present Petitioner and the circumstantial evidences relied upon by the prosecution in this case, I am inclined to release the petitioner on bail.

10. Let the Petitioner be released on bail in the above noted case, subject to furnishing a bail bond of Rs.50,000/-(rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter subject to such terms and conditions as would be imposed by the learned court below in the aforesaid facts and circumstances of the present case to ensure that the attendance of the Petitioner in trial.

11. The BLAPL is accordingly disposed of.

12. Urgent certified copy of this order be granted on proper application.

Jagabandhu

(A.K. Mohapatra)
Judge