

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8239 of 2021

Bala Turi

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

-versus-

State of Odisha

.... ***Opposite Party***
Mr. K.K. Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

07.03.2022

Order No.

- 05.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the F.I.R., case diary and other relevant documents on record.
 3. This is an application under Section 439 of the Criminal Procedure Code.
 4. The Petitioner is an accused in S.T. Case No.43/1 of 2020 arising out of Hatibari P.S. Case No.10 of 2020 pending in the court of learned 2nd Additional Sessions Judge, Rourkela for the commission of offences under Sections 302/201/34, I.P.C.
 5. The prosecution case, in brief, is that on the basis of F.I.R. lodged by one Jasa Kumari alleging that on 31.01.2020 at about 10.00 P.M. while she and her husband slept after taking dinner at that time her uncle called his husband for taking liquor. Thereafter, her husband not returned to the house. She searched him but could not trace out. On 05.02.2020 at about 10.00 A.M., she heard that her

husband's dead body was floating in the Pradhan Toll Well. She suspected that her uncle Bala Turi committed murder of her husband. Hence, she reported the matter at Police Station for taking legal action. On this report, O.I.C. registered P.S. Case No.10 of 2020 under Section 302/201 of the I.P.C. and took up investigation of the case.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 11.02.2020 and in the meantime, investigation has been completed and charge-sheet has been submitted. Learned counsel for the Petitioner further submits that out of 55 witnesses, 17 witnesses have been examined and all of them turned hostile. Further, he submits that the entire prosecution case is based on circumstantial evidence and there are no eye witnesses to the present case. In such view of the matter, learned counsel for the Petitioner prays for release of the Petitioner on bail and submits that there is no scope for absconding or fleeing away from the hands of justice.

7. Learned counsel for the State vehemently opposes the prayer for bail of the Petitioner on the ground that although there are no eye witnesses to the alleged occurrence and the case is based on circumstantial evidence and strong links to implicate the present Petitioner in the alleged crime. Further, learned counsel for the State submits that the deceased was found last seen together with the present Petitioner. Hence, he prays for rejection of the bail application of the Petitioner.

8. Having heard learned counsel for the parties, considering the nature allegation and the materials available on record and further keeping in view the period of custodial detention of the Petitioner, I am inclined to release the Petitioner on bail.

9. Let the Petitioner be released on bail in the aforesaid case on 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 following the conditions:-

- I. Petitioner shall not be involved in any offence of similar nature,
- II. He shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever.
- III. he shall appear before the concerned Police Station once in a week preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of trial; and
- IV. He shall not make any default in attending the court during trial on each date.

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

10. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

11. The Bail Application is accordingly disposed of.

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