

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9387 of 2022

Aswini Kumar Dhal

....

Petitioner

Mr. S.S. Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

Mr.G. Mukherjee, Sr. Advocate (Informant)

CORAM: JUSTICE V. NARASINGH

ORDER
12.10.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Mr. G. Mukherjee, learned Senior Advocate has appeared on behalf of the Informant by filing an appearance memo on 27.09.2022.
3. Registry is requested to trace and tag the same with the file. The name of Mr. G. Mukherjee, learned Senior Advocate along with Mr. S. Acharya, learned counsel for the Informant, be reflected in the cause list, file and CMS.
4. Heard learned counsel for the Petitioner, learned counsel for the State and learned counsel for the Informant.
5. The Petitioner is an accused in C.T. Case No.1865 of 2020 pending in the file of learned J.M.F.C., Jajpur Road, Jajpur, arising out of Jakhapura P.S Case No.111 of 2020, for offence under Sections 341/294/323/307/506/34 IPC and is in custody since 08.09.2022.

6. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Addl. District & Sessions Judge, Jajpur Road by order dated 22.09.2022 in the aforementioned case, the present BLAPL has been filed.

7. It is submitted by the learned counsel for the Petitioner that even if the entire allegation against the Petitioner is accepted at the face value, as borne out from the charge sheet, he will be liable under Section 109 IPC and since the co-accused persons, who have committed the overt act, admittedly have already been released on bail by this Court, further continuance of the Petitioner in custody is unwarranted.

8. Per contra, learned Senior Advocate for the Informant as well as learned Public Prosecutor, relying on the statement of the injured Ashok Kumar Sia, submits that at the behest of the present Petitioner, overt act was committed and in fact the intention was to do away with the life of the injured. It is submitted that in view of the criminal proclivity of the Petitioner, he should not be released on bail notwithstanding the others who have committed the overt act have enlarged on bail.

9. It is further submitted by the learned counsel for the Informant that because of clout of the accused and his criminal antecedent, there is threat to the life and limb of the injured and her family.

10. Considering the nature of allegation qua the Petitioner and taking into account the accused persons who have committed the overt act have been released on bail, 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.

11. To address the concern expressed by the Informant through learned counsel and to instill the confidence in the mind of the Informant and her family members, additional it is directed that the Petitioner shall appear before the jurisdictional police station of the Court in seisin over the matter thrice every week till conclusion of the trial and shall not in any way try to intimidate the Informant and/or her family members. Certification of such appearance shall be submitted to the learned Court in seisin over the matter once every month. It shall be open to the Informant to seek variance of the order in the event there is any violation of the order.

12. Accordingly, the BLAPL stands disposed of.

13. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

PKS

