

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8407 of 2021

Jaga @ Brahmananda Sahu ***Petitioner***
Mr. G.K. Mohanty, Advocate
-versus-

State of Odisha ***Opposite Party***
Mr. K.K. Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
10.03.2022

Order No.

02.

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 as well as statement of the witnesses.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioner is an accused in C.T.(S) No.90 of 2021 arising out of Purunakote P.S. Case No.64 of 2020 pending in the court of learned Sessions Judge, Angul for commission of offence punishable under Sections 302/201, I.P.C.
5. The circumstances giving rise to this bail application are that one Sri Biwajit Nayak had filed an F.I.R. in Purunakote Police Station on dated 30.11.2020 alleging therein that his elder sister, namely, Narma Nayak had gone to State Bank of India, Bantala at 6.30 A.M. on 20.11.2020 to withdraw some money on the death of his father and since that day said Narmada Nayak was missing. On

29.11.2020, the informant came to know during the night hour that the dead body of Narmada Nayak is lying on a hill near the way from Jagannathpur to Tainsi. It has been further stated by the said Biswajit Nayak in his F.I.R. that he along with his family members had gone to aforesaid place and had seen her sister lying dead.

6. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 26.04.2021 and in the meantime, investigation has been completed and charge-sheet has been submitted on 23.08.2021. He further submits that there is no eye witness to the alleged occurrence and it is only basing upon the confessional statement of the Petitioner, who is in custody. On the prosecution story, the victim was taken to jungle by the present Petitioner and he assaulted the victim with the help of a stone as found from the confessional statement of the Petitioner, which is not corroborated as an independent witness even there is no eye witness prima facie, who had seen the Petitioner taking the victim to the jungle in a bike. 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, however, the confessional statement as well as statement under Section 27 and leading to discovery are good enough to implicate the petitioner in the present case. However, it has been denied the fact that there is no eye witness to the occurrence and nobody has seen them when going to the jungle. Hence, he prays for rejection of the bail application of the Petitioner.

8. Having heard learned counsel for the parties, considering the facts and circumstances and entire prosecution in its entirety 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.30,000/- (rupees thirty 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 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.

(A.K. Mohapatra)
Judge