

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.8480 OF 2021

Sanjay Gouda

....

Petitioner

Mr. T.K. Acharya, Sr. Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. D.R. Parida, ASC.

CORAM:

MR. JUSTICE D.DASH

ORDER

06.01.2022

Order No.

01. 1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
2. This is the successive journey of the Petitioner, who is in custody in connection with Chatrapur P.S. Case No.131 of 2017 corresponding to S.T. Case No.26 of 2018 arising out of G.R. Case No.308 of 2017, pending on the file of learned Addl. District & Sessions Judge, Chatrapur running for the alleged commission of offence under section 147/148/324/326/307/302/120-B/212/149 of the IPC read with Section-25/27 of the Arms Act, in filing this application under section 439, Cr.P.C., for his release on bail in the above mentioned case.
3. Learned Senior Counsel for the Petitioner submits that the Petitioner being arrested in the case is in custody since 26.09.2017 and the trial in the meantime has made substantial progress. He further submits that during trial, the informant, brother and mother of the deceased have already been

examined and besides them, other few important witnesses have also tendered the evidence. Inviting the attention of this Court to the depositions of those witnesses, he places as to how they have resiled from their previous version and despite scathing cross-examination, no such material in support of the prosecution case has come to surface. In view of all these above, when there remains no scope on his part to flee from justice and tamper the evidence; he urges for grant of bail to the Petitioner as according to him further detention of the Petitioner in custody till conclusion of the trial would serve no useful purpose.

4. Learned counsel for the State opposes the move. According to him, large number of witnesses are yet to be examined and when only thirteen (13) prosecution witnesses have been examined, at this stage, it is impermissible to say that there is no chance for the improvement of the prosecution case and rather it has to be presumed that there remains all the scope for that. He however does not dispute the position that the Petitioner is in custody since 26.09.2017, when in the meantime the associate of the Petitioner in facing the charge as CICL before the Children Court as also few other accused persons are on bail. He submits to have received no such report regarding their adverse conduct.

5. Considering the submissions made and on going through the materials as placed; further keeping in view the surrounding circumstances including the factum of detention of the Petitioner in custody; while being inclined to reconsider the prayer for grant of bail to the Petitioner; it is directed that the

Petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the Court in seisin of the case with further conditions that that he will appear in person before the Court in seisin of the case on each and every date of posting of the case till conclusion of the trial; will appear before the IIC, Chatrapur P.S. every Monday in between 10 am to 3 pm till conclusion of the trial; will not threaten or terrorize the prosecution witnesses in any manner whatsoever; and will not leave the jurisdiction of Chatrapur P.S. till conclusion of the trial except on the date fixed before the trial Court and as would be so required to appear before the said Court.

Violation of any of the condition(s) shall entail cancellation of bail.

6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

**(D. Dash),
Judge.**

Narayan