

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8582 of 2021

Sapan Kumar Tapasi

.... ***Petitioner***
Mr. Jajati Keshari Khuntia,
Advocate

-versus-

State of Orissa

.... ***Opposite Party***
Mr. P.C. Das,
Additional Standing Counsel for State

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
06.01.2022

Order No.

05. 1. Heard learned counsel for both the parties and perused the case diary and other relevant papers.
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Balaramgadi P.S. Case No.3 of 2021, corresponding to C.T. Case No.203 of 2021, pending in the court of learned S.D.J.M., Balasore, for alleged commission of offences under Sections 302/34 I.P.C. and Section 25/27 of the Arms Act, 1959.
3. The Petitioner moved application for bail before the Court of learned 3rd Addl. Sessions Judge, Balasore, which was rejected on 22.09.2021. Learned counsel for the Petitioner submits that the Petitioner is in judicial custody since 26.03.2021 and charge-sheet has been filed against the Petitioner under Sections 302/147/148/449 /120-B/216/149 I.P.C. and Section 25/27 of the Arms Act, 1959. It is

further submitted that the occurrence in question took place on 15.03.2021 and on the very day the first information report was lodged by one Ajay Kumar Pradhan, wherein it is stated that some unknown culprits numbering about five to six assaulted his elder brother Bijaya Kumar Pradhan (hereafter the 'deceased') by means of sword, bhujali and also by fire arms, as a result of which, he sustained severe injuries and was shifted to District Headquarters Hospital, Angul, where he was declared dead. Learned counsel for the Petitioner further submitted that during the course of investigation, the eye witnesses were examined including one Kalia Singh and they have not stated regarding participation of the present petitioner in the alleged crime. Learned counsel for the Petitioner further submits that the co-accused persons, namely, Sk. Abdul Asif @ Lucky and Babula @ Sk. Rohit have been released on bail by this Hon'ble Court in BLAPL Nos.6217 of 2021 and 4009 of 2021 respectively. It is also submitted that the implication of the Petitioner is mainly based on the co-accused statement that Petitioner arranged shelter for the accused thereby allowing commission of crime. Learned counsel for the Petitioner further submitted that there is no criminal antecedent against the Petitioner and therefore, in view of the available materials on record, the bail application may be favourably considered.

4. Learned counsel for the State, on the other hand, has produced the case diary and opposed the prayer for bail of the present petitioner.

5. Learned counsel for the informant also opposed the prayer of the Petitioner for bail.

6. Considering the submissions made by the learned counsel for the respective parties, the nature of accusation against the Petitioner, the fact that the eye witnesses have not implicated the Petitioner in any manner in the commission of the alleged crime and the implication of the Petitioner is based only on giving shelter to the accused, the nature of circumstantial evidence appearing on record against the Petitioner and taking into account the period of detention of the Petitioner in judicial custody, I am inclined to release the petitioner on bail.

7. Let the Petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local solvent surety each for the like amount to the satisfaction of the court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper with further conditions that the Petitioner shall not indulge himself in any criminal activities, shall appear before the learned trial court on each date when the case would be posted for trial and shall not try to tamper with the evidence. Violation of any of the conditions would entail cancellation of bail.

8. The BLAPL is accordingly disposed of.

9. Issue urgent certified copy as per Rules.

(A.K. Mohapatra)
Judge