

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8708 of 2021

Duduma Majhi @ Duduma Bihari Majhi ***Petitioner***

Mr. B.S.Rayaguru, Advocate

-versus-

State of Odisha

.... ***Opposite Party***

Mr. K.K. Nayak, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

06.04.2022

Order No.

04.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Khariar P.S. Case No.536 of 2017, corresponding to C.T. Case No.536 of 2017 in S.T. Case No.27/18 of 2019, pending in the file of learned Addl. Sessions Judge, Nuapada, for commission of alleged offences under Sections 302/201/34/120-B of I.P.C.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.
4. The brief facts of the case is that on 01.12.2017 at 6.10 P.M., the complainant, namely Nrupati Tandi, aged about 35 years, W/o. Gupteswar Tandi of Vill-Jhitridhoda, PS-Khariar, Dist.-Nuapada lodged a written report before the IIC, Khariar P.S. alleging that on 01.12.2017, one Bhajni Majhi of vill-

Rohenpadar called over telephone and intimated her that three persons, namely, Khetramohan Majhi, Duryodhar Majhi and Mantu Majhi had killed to her brother-in-law, namely, Mahesh Ch. Tandi and on receiving such information, the complainant went to the spot, but did not get any clue regarding the matter. Then the said Bhajni Majhi repeatedly told her over telephone that she was also locked off inside the room. Basing upon the aforesaid information, Khariar P.S. Case No.292 of 2017 was registered and investigation was started.

5. Learned counsel for the Petitioner submits that most of the important prosecution witnesses number 10 having been examined in the trial, have not provided much of support to the prosecution case as laid. It is his submission that examination of the rest witnesses as listed in the charge sheet would not further improve the case of the prosecution. Placing the deposition of PWs 1 and 2, he submits that being the eye witnesses to the occurrence, they have resiled. In view of all these above, he urges for grant of bail to the Petitioner, as no useful purpose would be served on the part of the Petitioners to flee from justice and tamper the evidence.

6. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner. He submits that at this stage grant of bail to the Petitioner is likely to push the conclusion of the trial to uncertainty as there remains all the scope on the part of the Petitioner to flee from justice.

7. Having regard to the facts and circumstances of the case, considering the nature and gravity of offences alleged and the period of detention of the Petitioner, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

(i) He shall appear before the trial court on each and every date as fixed by the court;

(ii) He shall not tamper with the prosecution evidence;

(iii) He shall not influence or threaten any prosecution witness and cooperate in the investigation;

(iv) He shall provide his present address and mobile number to the I.O. and if any changes therein shall also be intimated to the I.O.;

(v) He shall not leave the jurisdiction of the court without special permission from the court; and

(vi) Violation of any of the above conditions shall entail cancellation of the bail.

8. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

9. With the above direction, the BLAPL is accordingly allowed.

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10. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge

U.K.Sahoo

