

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9781 of 2022

Sidhanta Seth

....

Petitioner

Mr. U.R. Jena, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

28.11.2022

Order No.

02.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is an accused in Sessions Case No.59 of 2022, pending on the file of learned Sessions Judge, Bolangir, arising out of Tusura P.S. Case No.183 of 2021 corresponding to G.R. Case No.1773 of 2021, for commission of alleged offences under Section 302/201/34 of IPC and is in custody since 25.12.2021.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge, Balangir by order dated 06.07.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel that the petitioner is in custody since 24.12.2022 and as charge sheet has already been

filed on 22.04.2022, further continuance of the petitioner in custody is not warranted.

6. It is submitted by the learned counsel for the petitioner that the basis of implication is last seen theory and the confessional statement of co-accused Sitansu Chhetri. It is submitted with vehemence that there are too many gaping holes in the last seen theory and there is no link between the offence and the petitioner.

7. In refuting such statement and to substantiate his submission learned counsel for the State relied on the 164 Cr.P.C. statement of Dasarath Behera and Sitansu Chhetri and Kuna Jal.

8. It is stated that all the above persons have categorically stated that since the petitioner was last seen with the deceased and they had all consumed liquor. After they left the place, the petitioner and the deceased were together.

9. Thereafter, there is nothing on record to indicate as to the reason to point a finger at the present petitioner, in as much as, it is on record that the recovery under Section 27 of the Evidence Act was at the instance of the co-accused. Hence, no prima facie material is on record to connect the accused with the alleged crime.

10. Considering the rival submissions and on perusal of materials on record, 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. It is apt to state here that the observations made hereunder is qua the accused shall not enure to the benefit of other accused persons whose complicity has to be judged independently in the light of accusations.

12. Accordingly, the BLAPL stands disposed of.
13. Urgent certified copy of this order be granted as per the rules.

(V. NARASINGH)
Judge

Santoshi

