

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9236 of 2021

Prasanta Sethy @ Prashant Sethy ***Petitioner***
Mr. B.N. Mohapatra, Advocate

-versus-

State of Odisha ***Opposite Party***

Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

06.07.2022

Order No.

04. 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.(Sess.) Case No.01 of 2021 arising out of Balichandrapur P.S. Case No.280 of 2020 pending in the court of learned District & Sessions Judge, Jajpur for commission of offence punishable under Section 302, I.P.C.
5. As per prosecution story, in short is that the deceased, who is the younger brother of the informant, had kept illicit relationship with the wife of the petitioner and once she fled away with the deceased and subsequently traced out her at Bhubaneswar and the petitioner accepted as his wife and living happily but the deceased visited frequently the

house of the petitioner. Further it is alleged that while younger brother of the informant returning to his house, on the way near Banamalipur turning, the accused persons committed his murder by using a sharp cutting weapon due to previous enmity. Hence this case.

6. It is submitted by learned counsel for the petitioner that although the case has been committed to the court of Sessions, however, no trial has been commenced and the petitioner is in custody since 16.10.2020 and that investigation of the case has been completed and charge-sheet has been submitted by the police. He further submits that on suspicious manner, the petitioner has been arrayed as an accused in the present case.

7. Further, learned counsel for the petitioner submits that the deceased had illicit relationship with the wife of the petitioner and the wife of the petitioner fled away with the deceased. It is also submitted that there are no eye witnesses to the alleged occurrence and the petitioner has been falsely implicated in this case on the basis of suspicion and that the only material is against the petitioner. He also submits that there is no scope for absconding or fleeing from the hands of the justice and that the petitioner is a local man.

8. Leaned Additional Standing Counsel for the State vehemently opposes the prayer for bail of the petitioner and submits that if the petitioner will released on bail, he may threaten the prosecution witnesses in any manner whatsoever and the bail application of the petitioner may be dismissed.

9. Having heard learned counsel for the parties and considering facts and surrounding circumstances of the case and nature of evidence on record and the period of custodial detention of the petitioner, it is directed that let the petitioner be released on bail on furnishing a bail bond of Rs.30,000/- (rupees thirty thousand) with one local solvent

surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to following conditions that :-

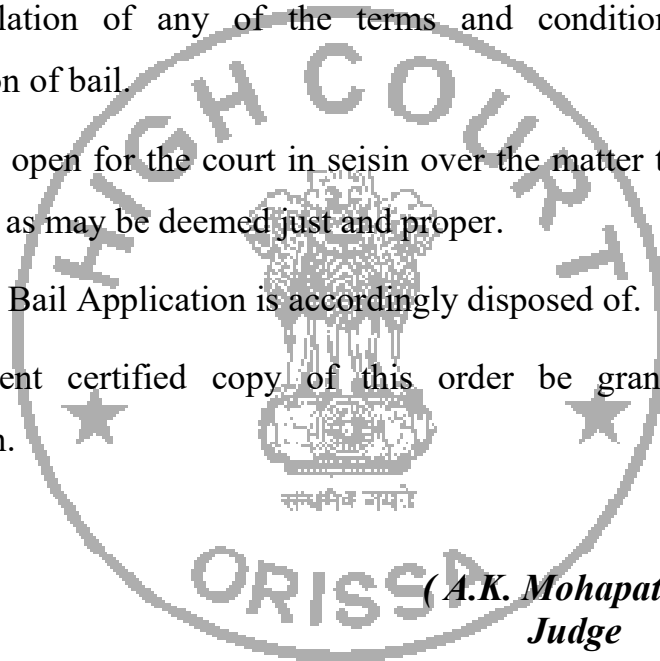
- I. The petitioner shall not be involved in any offence of similar nature;
- II. he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;
- III. he shall not make any default in attending the court during trial on each date without fail; and

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 as may be deemed just and proper.

11. The Bail Application is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.



(A.K. Mohapatra)
Judge