

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9254 of 2021

Deba Das

....

Petitioner

Mr. R.K. Mallick, Advocate

-versus-

State of Odisha

....

Opp. Party

*Mr. A. Das,
Addl. Government Advocate*

**CORAM:
JUSTICE S.K. SAHOO**

ORDER

11.02.2022

Order No.

01. This matter is taken up through Hybrid Arrangement (Video Conferencing/Physical Mode).

Heard learned counsel for the petitioner and the learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with C.T. Case No.183 of 2019 arising out of Balipatna P.S. Case No.185 of 2018 pending in the Court of learned Addl. Special Judge, Vigilance –cum- Addl. Sessions Judge, Bhubaneswar for offences punishable under sections 294/324/307/448/34 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of learned Addl. Sessions Judge, Bhubaneswar which was rejected on 25.08.2021.

Learned counsel for the petitioner submitted

that the petitioner is in judicial custody since 17.01.2019 and he is having no criminal antecedent. The petitioner approached this Court for the first time for bail in BLAPL No.2374 of 2019, which was rejected as per order dated 24.07.2019, taking into account the statements of two eye witnesses, namely, Sankar Das and Kuna Das and then the petitioner approached this Court for bail again in BLAPL No.3985 of 2020 and since there was no change in the circumstances, the bail application was rejected as per the order dated 02.02.2021 and direction was issued to the learned trial Court to expedite the trial and take immediate steps for summoning the eye witnesses to the occurrence for their examination at the first instance. It is contended by the learned counsel for the petitioner that in the meantime, the aforesaid two eye witnesses have been examined. Sankar Das being examined as P.W.4 has not supported the prosecution case. So far as the eye witness Kuna Das is concerned, he has been examined as P.W.1, he has supported the prosecution case but stated that while the deceased Tuna Das was trying to run inside his house, Subas Das, Purna Chandra Das and Babula Das and the petitioner attacked him and assaulted him by means of lathi, rod and the petitioner assaulted the deceased on his head with a crow bar. Learned counsel further submitted that

other co-accused persons, namely, Subas Das, Purna Chandra Das and Babula Das have already been released on bail and the deceased died on 27.10.2018 which is nineteen days after the occurrence and therefore, the bail application of the petitioner may be favourably reconsidered.

Learned counsel for the petitioner has filed the post mortem report which is taken on record.

Learned counsel for the State produced the case diary and opposed the prayer for bail.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced so far in the trial Court, the delay in disposal of the trial and the period of detention of the petitioner in judicial custody, I am inclined to reconsider the prayer for bail and direct the petitioner to be released on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties 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 subject to condition that the petitioner shall not try to tamper with the evidence and he shall appear before the learned trial Court on each date when the case would be posted for trial.

Violation of any terms and conditions shall entail cancellation of bail.

Accordingly, the BLAPL is disposed of.

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

(S.K. Sahoo)
Judge

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