

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9473 of 2021

Dasarathi Kanhar

.... ***Petitioner***
M/s. A.R.Panda, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.M.Mishra, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

02.11.2022

Order No.

- 06.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Gochhapada P.S. Case No.27 of 2021 corresponding to C.T. Case No.164 of 2021 pending in the Court of learned S.D.J.M., Phulbani for commission of offence punishable U/Ss. 147/148/302/201/149 of the I.P.C. on the allegation that the petitioner and others being armed with deadly weapons had committed rioting and done to death of one person and caused disappearance of the evidence by disposing of the body in the jungle in furtherance of their common intention.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner is an innocent person and he is no way connected with the commission of crime. It is further submitted that even if the prosecution allegations are taken to be true, no offence is said to have been made out against the petitioner because there are some omnibus allegations against the petitioner and others. It is further submitted that the petitioner's two daughters were Gang raped by the deceased and his friends and the villagers might have committed the murder of the deceased but since the petitioner was the father of the victim, the Police has unnecessarily and over zealously shown him as an

offender in this case. It is further submitted that co-accused Sambhunath Kanhar and Sudam @ Sudarsan Kanhar standing on similar footing have already been granted bail in BLAPL No. 9556 of 2021 and 9537 of 2021 and the petitioner is inside custody since 01.04.2021. In support of the release of co-accused persons on bail, learned counsel for the petitioner has filed the down loaded copy of aforesaid bail orders. Learned counsel by aforesaid submissions, prays to grant bail to the petitioner.

4. On the contrary, learned counsel for the State opposes the bail application in vehemence and he inter alia submits that there is a prima facie case against the petitioner for commission of murder of an innocent person causing disappearance of the evidence by disposing of the dead body in the jungle and it is accordingly prayed by learned counsel for the State to reject the bail application of the petitioner.

5. Considering the rival submissions, the period of detention in custody as also the nature and character of the accusations and the supporting materials available on record and keeping in view the manner and circumstance of the commission of the crime and the object of bail being not punitive, rather protecting the liberty of persons and the fact that the petitioner is a permanent resident of Gochhapada and further taking into consideration the release of co-accused persons standing on similar footing on bail and regard being had to the fact that no criminal antecedent has been reported against the petitioner and conclusion of investigation, this Court considers the bail application of the petitioner leniently.

6. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on such terms and conditions as deem fit and proper by the learned Court in seisin of the case with further conditions that the petitioner shall not leave the jurisdiction of the learned trial Court without prior permission till conclusion of the trial and the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with and that the petitioner shall attend the local

Police Station once in a month preferably on last Saturday of month for three months.

7. Accordingly, the BLAPL stands disposed of.
8. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge

Kishore

