

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9477 of 2021

Rushi @ Rushikesh Majhi

....

Petitioner

Mr. S.N. Mishra-4, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.S. Mohapatra, Additional Standing Counsel

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

12.01.2022

Order
No.

01. 1. This matter is taken up through video conferencing mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. This is an application under Section 439 of Cr.P.C for grant of bail to the petitioner in connection with Boden P.S. Case No.96 of 2020 corresponding to C.T. Case No.90 of 2020 pending in the file of learned J.M.F.C., Boden on the grounds stated therein.
4. Perused the FIR and statements of the witnesses recorded under Section 161 Cr.P.C. as at Annexure-2 and impugned order dated 07.10.2021 i.e. Annexure-2 besides a copy of the PM report i.e. Anenxure-4.
5. Gone through the contents of the FIR.
6. Learned counsel for the petitioner submits that three other accused persons, namely, Panchuram Majhi, Premsingh Majhi @ Bhaira and Kapil @ Kaibalya Majhi have been granted bail by a common order dated 22.12.2021 of this Court in BLAPL Nos.3619,

3616 and 3618 of 2021 respectively and the present accused is on similar footing and therefore, he should be enlarged on bail with any conditions. The learned counsel for the State submits that the statement of one of the accused, namely, Kapil @ Kaibalya Majhi recorded under Section 161 Cr.P.C. reveals the manner and circumstances under which the alleged overt acts had been committed by the accused persons and in fact, read out the same, while opposing the bail of the petitioner. The case is based on circumstantial evidence as is submitted by the learned counsel for the petitioner. However, on the basis of the confessional statement of accused persons, namely, Kapil @ Kaibalya Majhi and Panchuram Majhi, the petitioner and other accused persons have been implicated. It is clearly admitted by the learned counsel for the State considering the statement of the accused, namely, Kapil @ Kaibalya Majhi that there is no specific role attributed against the petitioner as far as the alleged assault is concerned which indicates that one Mano Majhi, Kanta Majhi and Patiram Majhi to be the assailants. The petitioner appears to be on similar footing likely three other accused persons who have been granted bail by order dated 22.12.2021. It is also claimed that there is no direct evidence to connect the petitioner with alleged occurrence which is said to have taken place on the date of occurrence. The deceased was alleged to have killed the wife of one Durbal Majhi by practicing witchcraft.

7. Having regard to the above facts and submission made about release of the three other accused persons on bail and the fact that the petitioner appears to be similarly situated like them, the Court is of the humble opinion that the petitioner should as well be enlarged on bail on similar terms and conditions and accordingly, it is ordered.

8. In the result, the petitioner is allowed to go on bail on furnishing a bail bond of Rs.50,000/-(rupees fifty thousand) with one solvent surety for the like amount to the satisfaction of the learned court below in seisin over the matter, who shall impose such other conditions, as deemed just and proper, in the facts and circumstances.

9. The BLAPL is disposed of.

10. As the restrictions due to the COVID-19 situation are continuing, learned counsel for the parties may utilize a soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed, vide Court's Notice No.4587, dated 25 March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(R.K. Pattanaik)
Judge