

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9550 of 2021

Lalmohan Behera* *Petitioner

Mr. Abhishek Dash, Advocate

-versus-

State of Odisha* *Opp. Party

Mr. Arupananda Das

Addl. Government Advocate

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

**ORDER
04.11.2022**

Order No.

04.

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

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

This is an application under section 439 of Cr.P.C. in connection with S.T. Case No.26 of 2020 arising out of Jharpokharia P.S. Case No.108 of 2019 pending in the Court of learned 1st Additional Sessions Judge, Baripada for offence punishable under section 302/34 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of learned 1st Additional Sessions Judge, Baripada, which was rejected on 08.07.2021.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 10.10.2019 and he has been charge sheeted under section 302/34 of the Indian Penal Code and earlier when the petitioner approached this Court for bail in BLAPL No.7725 of 2020, this Court though observed that it is a case where there is no direct evidence but in view of the nature of circumstantial evidence appearing on record, this Court rejected the bail application, however given liberty to the petitioner to renew the prayer for bail after examination of the material witnesses in the trial Court. Learned counsel further submitted that in the meantime, trial has commenced and out of eighteen charge sheet witnesses, eleven witnesses have been examined and he has filed the deposition copies of those witnesses. Referring to the evidence of the wife of the deceased, who has been examined as P.W.9, learned counsel for the petitioner urged that though the last seen of the deceased in the company of the petitioner so also P.W.9 was at Joka Hata where on the date of occurrence 'Rabana Podi' was going on but the dead body was found at another place and since there is no other clinching material and the trial has substantially progressed and at this stage, there is no chance of tampering with the evidence or absconding of the petitioner, the bail application of the petitioner may be favourably reconsidered.

Learned counsel for the State placed the evidence of the witnesses examined so far.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced so far in the trial Court, the period of detention of the petitioner in judicial custody and in view of the change in the circumstances after the rejection of the earlier bail application, 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 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.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge