

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9551 of 2021

Das Nageswar

....

Petitioner

Mr. S.P. Dash, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.N. Das, Additional Standing Counsel

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

10.01.2022

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 NTPC P.S. Case No.121 of 2021 registered under Section 394 of IPC corresponding to G.R. Case No.1546 of 2021 pending in the file of learned S.D.J.M., Talcher on the grounds stated therein.
4. Perused the FIR which is annexed to the bail application besides the impugned order dated 04.10.2021 as at Annexure-2.
5. Gone through the contents of the FIR which is with regard to an incident happened in the house of the informant during which some miscreants forcibly removed cash of Rs.65,000/- from the dickey of his vehicle and committed other overt acts which are described therein in detail. In that connection, after FIR was lodged, NTPC P.S. Case No.121 of 2021 was registered.

6. Learned counsel for the petitioner submits that a juvenile was arrested and forwarded to the court with respect to the alleged incident, whereas, the accused was remanded and there has been no recovery and seizure from him, nevertheless, he was identified by the informant in the TI parade but considering the fact that charge sheet has already been filed and the accused is in custody since 13.09.2021, he should be enlarged on bail with any conditions.

7. Learned counsel for the State, on the other hand, objects to the release of the petitioner on the ground that his involvement is established due to his identification in the T.I, parade and that apart, he is having two more cases i.e. Chhendipada P.S. Case No.366 of 2021 and Aska P.S. Case No.283 of 2019 which are even reflected in the impugned order 04.10.2021.

8. Admittedly from the FIR, it is made to reveal that robbery was committed by some miscreants, who removed cash of Rs.65,000/- and also committed other overt acts, such as, threatening the informant and other family members. There has been no recovery of any cash made from the petitioner, who in fact, while being judicial custody was remanded, which according to the learned counsel for the petitioner, is based on his confessional statement. It is made to understand that a juvenile was also arrested and forwarded in connection with case. Admittedly, the petitioner is having criminal antecedents while Chhendipada P.S. Case No.366 of 2021 is registered under Section 379 IPC and other one under Section 52(a)(i) of Odisha Excise Act. It is clarified by the learned counsel for the State that the petitioner is having one more case i.e. Chhendipada P.S. Case No.366 of 2021 registered under Section 392 IPC.

9. Having regard to the above facts and submissions made by the learned counsel appearing for the parties and the fact that almost after a month, the petitioner was arrested and was forwarded to the court on a remand, while being in judicial custody and apparently, no seizure has been made of any part of the stolen items and the fact that charge sheet was filed on 24.09.2021 notwithstanding presence of couple of cases to the credit of the petitioner, the Court is of the considered view that he should be enlarged on bail with stringent conditions which are as follows.

10. In the result, the petitioner is allowed to go on bail on furnishing a bail bond of Rs.40,000/-(rupees forty thousand) with two solvent sureties for the like amount each to the satisfaction of the learned court below in seisin over the matter with conditions that he shall not be involved in any such similar kinds of criminal activities, while on bail; and shall attend the PS and report the IIC concerned once in a fortnight preferably on Sunday between 10 AM to 1 PM for the period of next six months without fail.

11. The BLAPL is disposed of.

12. 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

