

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9619 of 2021

Basana Pawan Kalyan Reddy

.... Petitioner

Mr. R. Rath, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. K.K. Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

18.05.2022

Order No.

- 04.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the F.I.R., case diary and other relevant documents as well as statement of the witnesses.
 3. This is an application under Section 439 of the Criminal Procedure Code.
 4. The Petitioner being in custody in connection with C.T. Case No.58 of 2019 arising out of G.R. Case No. 356 of 2019 corresponding to Rayagada P.S. Case No.186 of 2019 on the file of learned District & Sessions Judge, Rayagada running for commission of offence under section 302/201/34 IPC has filed this application under section 439 of the Cr.P.C. for his release on bail.
 5. Learned counsel for the Petitioner submits that as per the prosecution case, this Petitioner unlike the three other accused

persons was not directly having any reason to be aggrieved by the act of the deceased and it is said that this Petitioner is an associate of those three accused persons against whom the allegations stand that they had taken the deceased to the place where he was assaulted to death. It is further submitted that as per the prosecution case, this Petitioner had gone to the spot at later point of time and the material against the Petitioner is standing to that effect that he joined with those three accused persons in assaulting the deceased by giving fist blows, slaps etc. as have been stated by the co-accused persons. He submits that in the entire incident no weapon is said to have been used and the doctor in the post mortem examination report has also not noted anything in support of the same. According to him, the Petitioner having taken the attempt to amicably resolve the dispute between the deceased and accused Prem Kumar has been the victim of the circumstance as in course of that discussion, quarrel ensued and all of a sudden, there was assault by those co-accused persons and merely for the presence of the Petitioner there, it is falsely stated that this Petitioner had also joined them. With all these above, further placing the period of detention of the Petitioner in custody as the trial is also going on; he urges for grant of bail to the Petitioner as according to him further detention of the Petitioner in custody till conclusion of the trial would serve no useful purpose especially when there remains no scope for the Petitioner to flee from justice or tamper the evidence. It is also submits that another co-accused person has already been released on bail by this Court by order dated 28.09.2021 in BLAPL No.7166 of 2021.

6. Learned counsel for the State opposes the move. According to him, the prosecution case is that all the accused persons together

assaulted the deceased to death and therefore none user of any weapon in the incident is of no significance. He further submits that the witnesses have stated about the telephonic conversation between the Petitioner and the accused Prem Kumar prior to the incident and its only thereafter the Petitioner proceeded to the spot and played his role as assigned.

7. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner with other surrounding circumstances including the period of detention of the Petitioner in custody and on going through the order passed by the learned Sessions Judge; it is directed that the Petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that he will appear in person before the court in seisin of the case on each date of posting of the case till conclusion of the trial; and will not terrorize or threaten the prosecution witnesses in any manner. Violation of any of the above condition(s) shall entail cancellation of bail.

8. The Bail Application is accordingly disposed of.

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

(A.K. Mohapatra)
Judge