

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9622 of 2021

Santosh Sahu

....

Petitioner

Mr. S.S. Ray-2, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.N. Das, Additional Standing Counsel

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

11.01.2022

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 B. Sadar P.S. Case No.262 of 2019 corresponding to G.R. Case No.1485 of 2019 pending in the file of learned S.D.J.M., Berhampur.
4. Perused the FIR and impugned order under Annexure-2.
5. Gone through the contents of the FIR.
6. Learned counsel for the petitioner submits that the local police submitted an FRT with no clue vide C.S. No.43 dated 3.3.2020 but subsequently, on the arrest of the petitioner in another case, reopened it and thereafter, forwarded him. It is further submitted that on the basis of confessional statement of the accused persons in Gosaninuagaon P.S. Case No.119 of 2020 that the petitioner was implicated and remanded despite an FRT filed earlier

and as such no recovery was made and considering the above facts and manner in which the accused has been involved, he should be enlarged on bail with any conditions which is objected to by the learned counsel for the State on the ground that accused admitted his participation and also led the police party to the goldsmith who said to have paid him Rs.4 lac which indicates his involvement.

7. Admittedly, the occurrence is of the year, 2019. A copy of the FIR under Annexure-3 is made available to the Court for perusal, in fact, an FRT was filed with no clue in the year 2020 and subsequently, after the petitioner was arrested in Gosaninuagaon P.S. Case No.119 of 2020, the case was once again opened and he was arrested. The involvement of the petitioner is on the strength of a confessional statement made before the police. Except that, there is no material to show involvement of the petitioner, inasmuch as, no any recovery has been made which in any way could have not been possible after such a lapse of time. Of course, goldsmith said to have admitted payment of Rs.4 lac to the petitioner. However, such evidence has been collected by the local police long after the alleged occurrence. Having regard to the above facts and circumstances leading to the implication of the petitioner and judicial custody, the Court is of the considered view that the accused should be enlarged on bail with 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.40,000/-(rupees forty 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

TUDU

