

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10724 of 2022

Kishore @ Iswar Nayak

Petitioner

Mr. A. Das, Advocate

-versus-

State of Odisha

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

23.11.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is an accused in G.R. Case No.407 of 2022, pending in the file of learned J.M.F.C., Bhuban arising out of Bhuban P.S. Case No.428 of 2022, for commission of alleged offences under Sections 186/188/353/307/465/468/420/34 of IPC read with Section 51(1) of Orissa Minor Minerals Concession Rules, 2004.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Kamakhyanagar by order dated 29.10.2022 in the aforementioned case, the present BLAPL has been filed.
5. Perused the order of rejection.
6. Learned counsel for the petitioner has placed on record the 161 Cr.P.C. statement of the complainant-Tahasildar and the order of learned JMFC which prima facie indicates that the petitioners have been forwarded for committing the offences punishable under

Section 186/188/353/465/468/420/34 of IPC read with Section 51(1) of OMMCR and there is no mention of 307 of IPC though the FIR admittedly was registered under Section 307 of IPC.

7. On perusal of the 161 Cr.P.C. statement of the complainant-Tahasildar, it is seen that the overt act of assault is attributed to the occupants of the vehicle bearing registration No.OD16D6754. It is submitted that since the present petitioner is the owner of the vehicle bearing registration No.OD16D6756 and since he is in custody from 19.10.2022 and as investigation has progressed substantially, his further continuance in custody is not warranted. It is also stated on instructions, that the petitioner is the first offender.

8. Taking into account the nature of allegations qua the petitioner and his vehicle, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter.

9. While enlarging the petitioner on bail the learned court below shall verify assertion regarding his criminal proclivity. If it comes to the fore that the petitioner has criminal antecedent of any nature this order shall stand recalled.

10. Additionally, it is directed that the petitioner shall appear before the jurisdictional police station once every week till submission of charge sheet.

11. Accordingly, the BLAPL stands disposed of.

12. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge