

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10066 of 2021

Chandan Polai

....

Petitioner

Ms. Chandana Mishra, Advocate

-versus-

State of Odisha

....

Opp. Party

*Mrs. Susamarani Sahoo,
Addl. Standing Counsel*

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

**ORDER
26.08.2022**

Order No.

04.

This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Mr. Prasanta Kumar Sahoo, Inspector in-charge of Aska police station appeared in person as per the order dated 05.08.2022 and he has filed the show cause.

After going through the show cause, I am satisfied with his explanation but warning is given to him to be careful in future not to make such type of statement in Court without verifying the case records.

In view of the show cause filed, this Court is not interested to initiate any action as contemplated under the Contempt of Courts Act, 1971.

The personal appearance of the Inspector in-

charge of Aska police station Mr. Prasanta Kumar Sahoo is dispensed with.

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

This is an application for bail under section 439 of Cr.P.C. in connection with S.T. Case No.42 of 2021 arising out of Aska P.S. Case No.618 of 2020 pending in the Court of learned Additional Sessions Judge, Aska for offences punishable under sections 341/294/323/325/307/302/34 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of learned Additional Sessions Judge, Aska, which was rejected on 01.11.2021.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 29.11.2020 and earlier when he approached this Court for bail in BLAPL No.3247 of 2021, the same was rejected as per the order dated 13.09.2021 and liberty was granted to the petitioner to renew the prayer for bail after examination of the eye witnesses in the trial Court. Learned counsel further submitted that there are three eye witnesses to the occurrence, namely, Dambarudhar Patra, Goutam Nahak and M. Dandapani Patra and out of which Dambarudhar Patra and Goutam Nahak were examined as P.W.1 and P.W.4 respectively but they have not supported the prosecution case. The other witness M. Dandapani

Patra is now staying at Surat and in spite of repeated summons, he is not appearing in Court to give his evidence. Learned counsel for the petitioner filed the deposition copies of the witnesses, which are taken on record.

Learned counsel for the State has not disputed that the eye witnesses P.W.1 and P.W.4 have not supported the prosecution case and as per the written instruction received by her dated 05.08.2022 from the Inspector in-charge of Aska police station, summons could not be served on M. Dandapani Patra as he was staying at Surat.

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced by the two eye witnesses to the occurrence, the period of detention of the petitioner in judicial custody and the change in the circumstances after 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 conditions that the petitioner shall

appear before the learned trial Court on each date when the case would be posted for trial and shall not try to tamper with the evidence.

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

RKM

