

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10253 of 2021

Daniel Kumbhar

.... ***Petitioner***
M/s.S.K.Joshi, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.S.R.Roul, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

22.09.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Balangir Sadar P.S. Case No.45 of 2015 corresponding to S.C. Case No.106/05/07(A)/2015-16 pending in the Court of learned 2nd. Addl. Sessions Judge, Balangir for commission of offence punishable U/Ss. 147/148/302/120-B/149 of I.P.C. on the allegation of rioting and committing murder of one Lifan Nag and Suresh Sahu by hatching a conspiracy with other co-accused persons in prosecution of their common object.
3. In the course of hearing of the bail application, learned counsel for the petitioner very fairly and honestly submits that the petitioner was granted interim bail but he did not surrender after availing interim bail, as a consequence thereof, N.B.W. was issued against him and he was arrested again on 19.08.2021 and he is inside the jail custody since then. Learned counsel for the petitioner further submits that similarly circumstanced co-accused persons have already been granted bail and the petitioner being an innocent person should not be detained any further and the petitioner having detained in custody for more than one year is sufficiently punished for misuse of the liberty granted to him and the trial having not progressed sufficiently, the petitioner may kindly be enlarged on bail. Learned

counsel for the petitioner also files some orders of this Court indicating therein release of co-accused persons on bail.

4. On contrary, learned counsel for the State, while opposing the bail application of the petitioner submits that the petitioner should not be granted bail since he has misused the liberty and in the meantime, 10 out of 30 charge sheeted witnesses have already been examined in this case and release of the petitioner on bail would reasonably afford the petitioner to tamper the witnesses likely to be examined in this case. Learned counsel for the State by taking into the allegations on record submits to reject the bail application of the petitioner.

5. Having heard learned counsel for the parties and after going through the record, it appears that the petitioner has misused the liberty for remaining absent after being granted interim bail and he was again apprehended on the strength of an N.B.W. after around four years as per the submission advanced by learned counsel for the petitioner. Besides, there are primafacie allegations on record against the petitioner for murder of two persons. Moreover, the petitioner having misused the liberty granted to him in form of interim bail and the main allegation of assault resulting in death of two persons being directed against him, no benefit of principle of parity can be extended to the petitioner.

6. Considering the nature and gravity of offence, especially the nature and gravity of allegations raised against the petitioner for commission of murder of two persons coupled with facts narrated in the preceding paragraph and the role allegedly attributed to the petitioner in the commission of crime and taking into account the conduct of the petitioner for misusing the liberty granted to him earlier and keeping in view the manner and circumstance of the commission of murder of two persons and there being prima facie case against the petitioner, this Court considers it undesirable to admit the petitioner to bail. Accordingly, the prayer for bail of the petitioner stands rejected.

7. At this point, learned counsel for the petitioner submits for expeditious disposal of the case. In view of such submission, the learned trial Court is requested to expedite the trial and dispose of the case as expeditiously as possible.

8. Accordingly, the BLAPL stands disposed of.

9. Urgent certified copy of the order be granted on proper application.

Kishore

