

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.11348 OF 2022

Tinga @ Ashok Naik

.... ***Petitioner***
Mr. R.K. Nayak, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. Samaresh Jena, ASC

CORAM:
MR. JUSTICE D.DASH

ORDER
20.12.2022

Order No.

01. 1. This matter is taken up by through hybrid arrangement (virtual/physical) mode.
2. This is the second journey of the Petitioner, who is in custody in connection with S.T. Case No.29 of 2017 corresponding to Baramba P.S. Case No.134 of 2016 pending on the file of learned Addl. Sessions Judge, Athagarh, running for the alleged commission of offence under section-302/34 of the IPC, in filing this application under section 439 of the Cr.P.C., for reconsideration of the prayer for grant of bail to the Petitioner in the above mentioned case.
3. Learned Counsel for the Petitioner submits that although the Petitioner has been in custody in connection with the above noted case since 07.10.2016, the trial has not yet been completed. It is further submitted that co-accused who is said to have gone with the Petitioner and played his roles in the incident is on bail since long. He also submits that the other co-accused, who is similarly situated with the Petitioner, has in the

meantime been released on bail. In view of all these above, when there remains no scope on the part of the Petitioner to flee from justice and the question of tampering the evidence does not arise as almost all the important witnesses for the prosecution have been examined in the trial; he urges for reconsideration of the prayer for grant of bail to the Petitioner on such terms and conditions as deemed just and proper.

4. Learned counsel for the State opposes the move citing the role of the Petitioner as stated by the prosecution witnesses to have been so played in the incident. He however does not dispute the position that this Petitioner being in custody since 07.10.2016, the trial is yet to conclude.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioner as also the factum of release of co-accused persons on bail with other surrounding circumstances including the period of detention of the Petitioner in custody; while being inclined to reconsider the prayer for grant bail to the Petitioner in the aforesaid case, 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:-

1. petitioner 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;
2. will appear before the IIC, Baramba P.S. on the 1st Monday of every month till conclusion of the trial;

3. will not indulge himself in commission of similar type of offence; and
4. will not leave the jurisdiction of the Court in seisin of the case without prior permission.

Violation of any of the condition(s) shall entail cancellation of bail.

5. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

***(D.Dash),
Judge.***



Himansu