

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10741 of 2021

Telem Kana

.... ***Petitioner***
M/s. A.K.Sahoo, Advocate

-versus-

State of Orissa

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

CORAM:

JUSTICE G. SATAPATHY

ORDER

27.09.2022

Order No.

- 04.
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 Motu P.S. Case No.29 of 2020 corresponding to G.R. Case No.149 of 2020(A), after commitment registered as C.T. No. 124 of 2021 pending in the Court of learned Sessions Judge-cum-special Judge, Malkangiri for commission of offence punishable U/Ss. 302/201/34 of the I.P.C. read with Section 4(1) of Odisha Prevention of Witch Hunting Act, 2013 on the allegation of committing murder of parents of the informant and causing disappearance of the evidence by burning their body.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner has not been named in the F.I.R. nor is there any material on record to justify the detention of the petitioner in this case and the implication of the petitioner in this case is on the basis of confession of co-accused and on some omnibus statement of the witnesses. It is further submitted that the petitioner is inside the jail custody since 02.07.2020 and in the

meanwhile, only two witnesses have been examined and even if the allegations on record are taken on face of it, only the presence of the petitioner at the spot where one dead body was being cremated would surface. Learned counsel for the petitioner further submits that in the above circumstance of facts, when the petitioner has not committed any offences, he may kindly be enlarged on bail.

4. On contrary, learned counsel for the State, submits that although the name of the petitioner does not find place in the F.I.R. but the statement of the informant reveals that she had learnt about the incident from one Agal Raja, who had disclosed before her that the petitioner and others had killed the deceased on the suspicion of practicing witchcraft and the petitioner, therefore, should not be enlarged on bail.

5. Considering the rival submissions of the parties and taking into consideration the nature of allegation and the surrounding circumstances of the crime and more particularly the period of detention of the petitioner in custody which impedes his right of personal liberty which should be considered with utmost priority and the prosecution having not able to place on record that the petitioner would tamper the witnesses or abscond in the event of his enlargement on bail and taking into consideration about non-availability of any eye-witness account against the petitioner and there being only omnibus statement of witnesses including witness Agal Raja against the petitioner, this Court considers it fit case to enlarge the petitioner on bail.

6. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on furnishing bail

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bonds of Rs.25,000/- with two solvent sureties each for the like amount to the satisfaction of the learned trial Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall not leave the jurisdiction of the learned trial Court without prior permission till conclusion of trial and the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with by the learned trial Court.

7. Accordingly, the BLAPL stands disposed of.
8. Urgent certified copy of the order be granted on proper application.

Kishore

