

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10937 of 2021

Nilu Swain

....

Petitioner

Mr. Raghunath Biswal, Advocate

-versus-

State of Odisha

....

Opp. Party

Mrs. Susamarani Sahoo,
Addl. Standing Counsel

CORAM:

JUSTICE S.K. SAHOO

Order No.

ORDER

24.06.2022

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

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

This is an application under section 439 of Cr.P.C. for grant of bail to the petitioner in connection with Gopalpur P.S. Case No.171 of 2020 corresponding to S.T. Case No.92 of 2021 pending in the Court of learned Addl. C.J.M –cum- Asst. Sessions Judge, Berhampur for alleged commission of offences under section 395 of the Indian Penal Code.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 16.10.2020 and when he approached this Court last

time for bail in BLAPL No. 2378 of 2021, this Court as per order dated 01.09.2021, while rejecting the bail application observed that the petitioner is at liberty to renew the prayer for bail after examination of the identifying witness in the learned trial Court. It is submitted by the learned counsel for the petitioner that in the meantime trial has commenced and the identifying witness has been examined as P.W.1 and in the Court, he has identified all the accused persons to whom he had earlier identified in the T.I. parade and co-accused persons Kanhu Patra and Susanta Behera have already been released on bail by this Court in BLAPL No.2674 of 2021 and BLAPL No.5457 of 2021 and therefore, the bail application of the petitioner may be favourably reconsidered.

On perusal of the bail order dated 24.06.2021 passed by this Court in respect of co-accused Kanhu Patra in BLAPL No.2674 of 2021, it appears that wrong submission has been made from the side of the accused that the said accused was not put to T.I. parade and the learned counsel for the State did not also bring the correct state of affairs before the Court.

Similarly, so far as co-accused Susanta Behera in BLAPL No.5457 of 2021 is concerned, nothing has been mentioned therein that the Court was apprised of the fact that the said accused was identified in the

T.I. parade. Since the material aspects of the case regarding identification of the accused persons in the T.I. parade have been suppressed which led to the passing of the bail order, in my humble view, on the basis of such bail orders of the co-accused persons, the petitioner cannot claim parity.

Considering the submissions made by the learned counsel for the respective parties, while not inclining to release the petitioner on bail, I direct the learned trial Court to expedite the trial and conclude the same within a period of six months from the date of receipt of a copy of this order.

The BLAPL is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.

(S.K. Sahoo)
Judge