

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 11416 of 2021

Susanta Kumar Dhalasamanta		Petitioner
		Mr. S.K. Padhy, Advocate
- Versus -		
State of Odisha		Opposite Party
		Mr. P. Tripathy, Addl. Standing Counsel

**CORAM:
JUSTICE SASHIKANTA MISHRA**

**ORDER
11.08.2022**

**Order No.
05.**

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned Addl. Standing Counsel for the State.
3. The petitioner is in custody since 09.03.2018 having been remanded in Chauliaganj P.S. Case No. 172 of 2009 corresponding to G.R. Case No. 1533 of 2009 of the Court of learned J.M.F.C., Cuttack, now pending before the 1st Additional District Judge, Cuttack in S.T. Case Number 186 of 2018 for the alleged commission of offence under Sections 302/34 of IPC read with Sections 25 and 27 of the Indian Arms act.
4. The prosecution case is that one Aswini Kumar Sethi lodged FIR on 11.12.2009 before the Chauliaganj Police Station informing that on that day at about 10 AM, his son Titua @ Aniruddha Sethi and nephew Lichua @ Kameswar Sethi were shot at by some unidentified persons at the fish market of Nuabazar. When he went to the spot he found Lichua lying dead and that Titua had been shifted to SCB medical College and Hospital, Cuttack. On arriving at the hospital, he found his son Titua also dead. On the FIR so lodged by the informant, investigation commenced. The petitioner

was however remanded on 09.03.2018 being in custody in connection with another case.

5. It is submitted by Mr. S.K. Padhy, learned counsel appearing for the petitioner that the petitioners was remanded in this case after lapse of about nine years and that too without any evidence against him. It is further submitted that there are no eye-witnesses to the alleged occurrence nor there is any material to show that the petitioner had any nexus whatsoever with the occurrence. It is further submitted that the petitioner has been in custody for more than four years but the trial, which has already commenced, is yet to conclude. Most importantly, the informant, who has already been examined in the trial, has not implicated the petitioner. It is also submitted that there is no likelihood of the trial being concluded in the near future.

6. Per contra, Mr. P. Tripathy, learned Additional Standing Counsel for the state has vehemently opposed the prayer for bail by arguing that the petitioner is a hardened criminal having series of cases, including cases of murder against him. Moreover he was running a crime syndicate in Cuttack exercising control over a network of criminals being involved in all sorts of crimes, such as, extortion, tender-fixing, murder, assault etc. It is further argued that since trial has already begun it would not be proper to enlarge the petitioner on bail as, given his antecedents and criminal background it is quite probable that he may threaten or otherwise influence the witnesses. It is also argued that the petitioner was the mastermind of the alleged occurrence inasmuch as there is clear proof that he had supplied the firearms using which the victims were killed.

7. I have considered the rival contentions and have also produced the materials on record and the case diary carefully. Undoubtedly, there are no eyewitnesses to the occurrence. But there is some evidence in the form of statement of some witnesses who have seen the culprits handing over the firearms to one Bhajana, who had been given the same in the first place by the petitioner. Some witnesses have also stated that the firearms, which were used by the culprits to kill the victims, belonged to the petitioner and that he had handed over the same to one Babulu & Gauri Kumar Mohapatra on 12.01.2010 for transporting the same to Raipur for safe custody. All this prima facie shows his complicity in the occurrence. Moreover, trial has already commenced with some witnesses being examined from out of 61 charge-sheeted witnesses. The petitioner has multiple criminal antecedents including involvement in grave offences like murder. There is therefore force in the argument of learned State Counsel that if released at this stage, there is likelihood of the petitioner trying to threaten or otherwise influence the prosecution witnesses to be examined.

8. Having regard to the above facts, I am not inclined to allow the prayer for bail, which is therefore, rejected.

9. BLAPL is accordingly, rejected.

(Sashikanta Mishra)
Judge