

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11506 of 2021

Arun Jena

.... ***Petitioner***
Mr. S. Behera, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. M. Mishra, A.S.C.

CORAM:
JUSTICE G. SATAPATHY

ORDER
26.10.2022

Order No.

10. 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 C.T. Case No. 748 of 2021 arising out of Jajpur Sadar P.S. Case No.91 of 2021 of the Court of learned S.D.J.M., Jajpur and now pending in the file of learned Sessions Judge, Jajpur in C.T. (Sessions) No. 77 of 2021 for commission of offences punishable under Sections 302/201/417/376/109 of IPC on the allegations of committing rape and murder of the deceased as well as causing disappearance of the evidence by disposing the body of the deceased.
3. In the course of hearing of the bail application, learned counsel for the petitioner submits that the informant earlier had suspected the involvement of one Harihar Naik and accordingly lodged FIR against said Harihar Naik for kidnapping her daughter, but subsequently the

present petitioner was arraigned as an accused in this case solely on the basis of the confession before the police and there is no material at all available on record to find out a single circumstance against the petitioner to rope him in this case. It is also submitted that the petitioner is inside custody since 16.04.2021 and the circumstance as allegedly reflected against the petitioner are motivated and concocted and do not form any chain of circumstance conclusively point out the guilt of the accused. Learned counsel for the petitioner also submits that the materials on record do not disclose any prima facie case against the petitioner and the petitioner thereby may kindly be enlarged on bail.

4. On the other hand, learned counsel for the State while admitting about availability of no direct evidence against the petitioner, forcibly submits that the petitioner has not only gave recovery of mobile and vanity bag of the deceased in presence of witnesses but also has made statement before some of the witnesses which itself amounts to extra judicial confession which is quite admissible under law and the chain of circumstances as available on record would go to indicate a prima facie case against the petitioner so as to deny bail to him in this case. It is accordingly prayed to reject the bail application of the petitioner.

5. Considering the rival submissions of the parties and taking into consideration the pre trial detention of the petitioner since 16.04.2021 and further taking into account that the case of the prosecution entirely rest on circumstantial evidence and recovery of the articles of the deceased pursuant to disclosure statement of the petitioner as submitted and keeping in view the circumstance of allegation as well

as the age of the petitioner and admittedly the FIR being lodged against one Harihar Naik, this Court considers the bail application of the petitioner affirmatively.

6. Hence, the prayer for the bail of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.25,000/- with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall attend the trial Court on each date without fail unless his attendance is dispensed with and that he shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

7. Accordingly, the BLAPL stands disposed of.

8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subhasmita

