

(2024) 05 OHC CK 0119

Orissa High Court

Case No: Bail Application No. 1918 Of 2024

Santosh Biswal @ jitu

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision: May 14, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 109, 399, 402
- Arms Act, 1959 - Section 25, 27

Hon'ble Judges: A.K. Mohapatra, J

Bench: Single Bench

Advocate: Ashish Ranjan Samal

Final Decision: Disposed Of

Judgement

A.K. Mohapatra, J

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the Petitioners as well as learned Additional Government Advocate for the State. Perused the materials placed before this Court.

3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioners for

bail in connection with Brajrajnagar P.S. Case No.30 of 2024 corresponding to C.T. Case No.85 of 2024 pending in the Court of the learned

J.M.F.C.(1) Cog. Taking, Jharusugda for alleged commission of offence under Sections 399,402, 109 of the Indian Penal Code read with section 25/35 of the Arms Act.

4. Learned counsel for the Petitioners submits that earlier this matter was not before any other Bench of this Court. It is submitted by the learned counsel for the Petitioners that the Petitioners are in custody since 20.01.2024. It is also contended by the learned counsel for the Petitioners that in the meantime investigation has been concluded and final Charge Sheet has been filed on 19.02.2024. Further referring to the allegations made in the F.I.R. the learned counsel for the Petitioners submitted that the Petitioners have been falsely implicated. He further contended that since the Petitioners belong to the locality, there is no chance of their absconding. Learned counsel for the Petitioners further submitted that the Petitioner No.1 is having 20 number of criminal antecedents and Petitioner No.2 is having three criminal antecedents. On such ground, learned counsel for the Petitioners submitted that the Petitioners be released on bail on any stringent conditions.

5. Learned Additional Standing Counsel for the State on the other hand objected to the release of the Petitioners on bail on the ground that the Petitioners are having several criminal antecedents. He further contended that in the event the petitioners are released on bail, there is every possibility of their involvement in similar nature of criminal antecedent and also there is possibility of their absconding and in such eventuality, delay would cause in conclusion of the trial. On such ground, learned Additional Government Advocate submitted for rejection of the bail application of the petitioners.

6. Having heard learned counsels for the parties as well as considering the surrounding facts as well as the materials on record this Court is not inclined to release the Petitioner No.1. Accordingly the prayer for bail of the Petitioner No.1 stands rejected. Liberty is given to the Petitioner No.1 to move the trial court for bail and the same shall be considered on its own merit.

7. So far Petitioner No.2 is concerned, this Court is inclined to grant bail to the Petitioner No.2 and it is directed that let the Petitioner No.2 be released on bail in the aforesaid case on furnishing a bail bond of Rs.35,000/- (Rupees Thirty five thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter with the following conditions.

- I) The Petitioners shall not be involved in any similar nature of offence while on bail;
- II) they shall appear before the concerned Police Station once in a week preferably on Sunday between 10 A.M. to 1 P.M. for a period of one month, once in a fortnight for a period of three months and thereafter once in a month till conclusion of trial.
- III) they shall appear before the court below on each and every date of posting without fail.

Violation of any of the terms and conditions shall entail cancellation of bail.

7. The BLAPL is, accordingly, disposed of.

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

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