

(2024) 07 OHC CK 0035

Orissa High Court

Case No: Bail Application No. 2144 Of 2024

Dharmendra Tiwari

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision: July 1, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 34, 394
- Arms Act, 1959 - Section 25, 27

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

Bench: Single Bench

Advocate: Manoj Kumar Panda, M.R.Mishra

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 appearing for the Petitioner and learned Additional Standing Counsel appearing for the State-Opposite Party. Perused the materials placed before this Court.
3. The present bail application under Section 439 of Cr.P.C. has been filed by the Petitioner for regular bail in connection with G.R. Case No. 1149/2021, arising out of Sundargarh Sadar P.S. Case No.202 of 2021, pending in the Court of learned SDJM(S), Sundargarh for alleged commission of offence punishable under Sections 394/34 of IPC, read with section 25/27 of Arms Act.

4. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 05.10.2023. He further submitted that in the meantime time the investigation has been concluded and charge sheet has been filed. Learned counsel for the Petitioner submitted that initially the F.I.R. was registered against four unknown accused persons, who had committed the dacoity of bank and it has been alleged that a total of Rs.2,87,410/- has been stolen from the bank. So far the present petitioner is concerned, he further submitted that the Petitioner has been falsely implicated in the present case. He further contended that while the Petitioner was in custody in another case, he has been taken on remand in the present case. He further contended that the Petitioner is having one similar criminal antecedent. He further submitted that although the petitioner does not belong to State of Odisha, he is ready and willing to abide any terms and conditions that would be imposed by this Court.

5. Learned Additional Standing Counsel on the other hand submitted that the allegations made in the F.I.R. are grave and serious in nature. He further submitted that the Petitioner has been identified in CCTV footage. It was submitted that the present Petitioner does not belong to State of Odisha, therefore in the event he is released on bail, he might abscond from justice which would cause delay in conclusion of trial. In such view of the matter, learned counsel for the State submitted that the bail application of the Petitioner be rejected at this juncture.

6. Having heard learned counsel for the respective parties and on careful consideration of the surrounding facts as well as materials on record, further taking into consideration the fact that no TI parade has been conducted as of now, that the petitioner has been in custody 05.10.2023 and he is having one similar criminal antecedent, this Court is inclined to release the Petitioner on bail subject to imposition of stringent conditions.

7. Hence, it is directed that the Petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs.40,000/- (Rupees Forty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions:

I) The Petitioner shall also file an affidavit before the Trial Court with regard to indicating there his residential details other details like Aadhar No., Phone No. before the jurisdictional police station & further release of the Petitioner shall be subject to verification of such details as would be furnished by any relative of the Petitioner in the shape of an affidavit.

II) he shall not be involved in any offence of similar nature while on bail;

III) he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;

IV) he shall not make any default in attending the court during trial on each date without fail;

V) he shall appear before the concerned Police Station once in a fortnight preferably on 'Sunday' in between 10.00 A.M. to 1.00 P.M. till conclusion of the trial.

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

8. It is open for the Court in seisin over the matter to impose any other conditions as may be deemed just and proper. Violation of any condition shall entail cancellation of the bail application.

9. It is further directed that the bail granted to the Petitioner be subject to the condition that the court below shall verify the similar criminal antecedent of the Petitioner. In the event the Petitioner is having more than one similar criminal antecedent, this bail order shall automatically stand revoked

10. The BLAPL is, accordingly, disposed of.

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