

(2023) 05 OHC CK 0112

In the Orissa High Court

Case No : Bail Application No. 1413 Of 2023

Akshaya Kumar Pradhan @ Akshaya Pradhan

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 05-05-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 342, 365

Citation : (2023) 05 OHC CK 0112

Hon'ble Judges : D.Dash, J

Bench : Single Bench

Advocate : A.N. Samantaray, S.Mishra

Final Decision : Disposed Of

Judgement

D.Dash, J

1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. This is the successive journey of the Petitioner, who is in custody in connection with Khandagiri P.S. Case No.48 of 2018 corresponding to C.T. Case No.14/160 of 2018 pending on the file of the learned 2nd Additional Sessions Judge, Bhubaneswar, running for the alleged commission of offence under sections 365/342 of the I.P.C., in filing this application under section 439, Cr.P.C., for his release on bail.
3. Learned counsel for the Petitioner submits that this Petitioner being arrested in the case on 06.05.2018 is in custody since then. He further submits that on the last occasion by order dated 30.09.2022, the Petitioner had been granted interim bail as this Court then was not inclined to grant regular bail to the Petitioner pending conclusion of the Trial and after expiry of the said period of interim bail, the Petitioner had surrendered in court in time and is now in custody. It is submitted that despite such long period of detention of the Petitioner in custody when up-till the last date of disposal of BLAPL No.4640 of 2022, the prosecution

had examined nine witnesses out of 39-40 during this one year, there has been the improvement by addition of two more. He therefore, submits that if in this way the trial goes on at a snail's pace, its conclusion is not expected so soon and for that the Petitioner and his family members are unnecessarily suffering. He also submits that the co-accused-Kailash who, according to the case of the prosecution is the principal accused is in custody. In view of all these above, when there remains no scope on the part of the Petitioner to flee from justice and the question of tampering the evidence at this stage, does not arise, he urges for reconsideration of the prayer for grant of bail to this Petitioner.

4. Learned counsel for the State opposes the move. He, however, does not dispute the position that the Petitioner being in custody since 06.05.2018 in the trial, by now 11 witnesses has been examined. He submits to have no instruction as to any adverse conduct of the Petitioner during the period when he was on interim bail.

5. Taking into account the submissions made; further keeping in view the materials on records including the period of detention of the Petitioner in custody since 06.05.2018 and the tardy progress of the trial, while being inclined to reconsider the prayer for bail of this petitioner; it is directed that the Petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that he will not indulge himself in any criminal activity; will appear in person before the court in seisin of the case on each date of posting of the case till conclusion of the trial and will not leave the jurisdiction of the Court without prior permission.

6. The BLAPL is accordingly disposed of.

7. Issue urgent certified copy as per rules.

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