

(2024) 04 OHC CK 0032

In the Orissa High Court

Case No : Bail Application No. 350 Of 2024

Arabinda Mallick @ Arabinda Malik

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 04-04-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 395

Citation : (2024) 04 OHC CK 0032

Hon'ble Judges : G. Satapathy, J

Bench : Single Bench

Advocate : P.S.Das, B.K.Ragada

Judgement

G. Satapathy, J

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is a bail application U/S.439 of Cr.P.C. by the petitioner for grant of bail in connection with G.R. Case No. 772 of 2023 arising out of Patna P.S. Case No.195 of 2023 pending in the file of learned J.M.F.C.(Cog. Taking), Keonjhar for commission of offences punishable under Section 395 of the IPC, on the allegation of committing theft of 232 square meter of conductor costing around Rs.4,20,000/-, along with others.
3. Heard, Mr. P.S.Das, learned counsel for the petitioner and Mr. B.K.Ragada, learned AGA in the matter and perused the record. Mr.Das while not disputing the pendency of two criminal antecedents against the petitioner in Marsaghai P.S. Case No. 35 of 2023 and Kendrapara Town P.S. Case No. 238 of 2022 for commission of offence U/S. 395 of IPC submits that the investigating agency is yet to take any steps to remand the petitioner in these cases, even though he is detained in custody in this case since 11.11.2023.
4. After having considered the rival submissions and taking into consideration the nature and gravity of offence, so also the accusation made against him and on

going through the materials placed on record which reveals the mode and manner of implication of the present petitioner in this case and regard being had to the pre-trial detention of the petitioner in custody and release of co-accused Harish Chandra Rout @ Bapi, Sekh Irfan, Sajan Khan @ Sahajan Khan & Sk.@ Sekh Soukat @ Sokat @ Sk. Sakat on bail in BLAPL Nos. 14648, 14541 & 14542 of 2023 & BLAPL No. 465 of 2024 and further the fact that the petitioner despite being in custody has not been remanded to custody in other cases, this Court does consider it proper to grant bail to the present petitioner by extending the principle of parity.

5. Hence, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) 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 by it with following conditions:-

- (i) the petitioner shall not commit any offence while on bail,
- (ii) the petitioner shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with. In case the Petitioner fails without sufficient cause to appear in the Court in accordance with the terms of the bail, the learned trial Court may proceed against the Petitioner for offence U/S.229-A of IPC in accordance with law.
- (iii) the petitioner shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case and
- (iv) the Petitioner shall appear before the I.O. once in a fortnight preferably on 2nd Sunday of the month in between 10A.M. to 12 Noon for six(06) months from the actual date of his release from the custody.

The I.O. shall not detain the petitioner unnecessarily after recording his attendance beyond the time as stipulated.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the petitioner without further reference to this Court, if any of the above conditions are violated or a case for cancellation of bail is otherwise made out. In the wake of aforesaid, the subsequent involvement of the petitioner for similar offence in future on prima facie accusations may be treated as a ground for cancellation of bail.

6. Accordingly, the BLAPL stands disposed of.

7. Urgent certified copy of the order be granted on proper application.

.....