

(2023) 07 OHC CK 0231
In the Orissa High Court
Case No : Bail Application No. 4642 Of 2023

Bhagirathi Swain

APPELLANT

Vs

State Of Orissa

RESPONDENT

Date of Decision : 25-07-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 307, 324, 326
Explosive Substances Act, 1908 — Section 3, 4

Citation : (2023) 07 OHC CK 0231

Hon'ble Judges : G. Satapathy, J

Bench : Single Bench

Advocate : B.K. Behera, S.S. Pradhan

Final Decision : Disposed Of

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 Kharavel Nagar P.S. Case No.118 of 2023 arising out of C.T. Case No.428 of 2023 pending in the file of learned S.D.J.M., Bhubaneswar, for commission of offence punishable under Sections 307/324/326/34 of IPC read with Sections 3 & 4 of Explosive Substance Act, on the allegation of engaging contract killers to eliminate the husband of the informant and, thereby, co-accused had attempted to the life of such person.
3. In the course of hearing of the bail application, Mr. B.K. Behera, learned counsel for the petitioner submits that although there is allegation against the present petitioner for engaging the contract killers, but the same was false and concocted and the petitioner had no role in this case, rather there was an allegation of illicit relationship between the wife of the petitioner and the husband of the informant, which led to filing of this false case against the

present petitioner. It is further submitted by him that the petitioner is in custody since 26.03.2023 and co-accused has already been granted bail. On these grounds, learned counsel for the petitioner prays to grant bail to the petitioner.

4. On the other hand, Mr. S.S. Pradhan, learned AGA, however, by drawing attention of the Court to the earlier incident in which the petitioner was found to have attacked the husband of the informant, prays to reject the bail application of the petitioner, but learned counsel for the petitioner replies that the petitioner has already been granted bail in that case as the police had earlier submitted a final report as no clue in that case.

5. After having considered the rival submissions made and taking into consideration the nature and gravity of accusations raised against the petitioner and keeping in view the manner and circumstance of transaction in this crime and regard being had to the pre trial detention of the petitioner since 26.03.2023 and taking into account the other circumstances on record in entirety including release of co-accused Dukhishyam Rout on bail in BLAPL No.4579 of 2023 and further, taking into account the main allegation being directed against co-accused Jitu Palei and Lipun, who are not the petitioners in this case, this Court admits the petitioner to bail.

6. Hence, the bail application of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five 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,
- (iii) the petitioner shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case,
- (iv) the petitioner shall report attendance before the Jurisdictional Police Station once in a week preferably on Sunday in between 10 A.M. to 12 Noon for six(06) months from the actual date of release from the custody and
- (vi) the petitioner shall not contact anyone of the family members of the informant in any way.

The I.I.C. of Jurisdictional Police Station 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 in future for grave and serious offences on prima facie accusations may be treated as a

ground for cancellation of bail in this case. Violation of any of the conditions would be taken as a misuse of concession of bail granted to the petitioner by this Court today.

This order may not constitute as precedent for grant of bail to co-accused persons.

7. Accordingly, the BLAPL stands disposed of.

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

.....