

(2024) 06 OHC CK 0044

In the Orissa High Court

Case No : Bail Application No. 5587 Of 2024

Galib Hasim @ Galib Hasmi

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 19-06-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 120B, 379, 411

Citation : (2024) 06 OHC CK 0044

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

Bench : Single Bench

Advocate : Bidyalok Mohapatra, D.Nayak

Final Decision : Disposed Of

Judgement

A.K. Mohapatra, J

1. This matter is taken up through Hybrid 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 relating to Paradeep Model P.S. Case No.122 of 2024, corresponding to G.R. Case No.502 of 2024, pending before the learned JMFC, Kujang, for alleged commission of offence punishable under Sections 379, 411, 120-B of the IPC.
4. Learned counsel for the Petitioner submits that earlier this matter was not before any other Bench of this Court. It is submitted by the learned counsel for the Petitioner that the Petitioner is in custody since 29.04.2024. He also contended that the investigation has progressed substantially and the final charge-sheet is likely to be filed soon. Learned counsel for the Petitioner

submitted that two of the co-accused persons namely Gulam Mustafa @ Gulam Guss (ABLAPL No.4999 of 2024 dated 21.05.2024) and Janefar Khan (ABLAPL No.5056 of 2024 dated 21.05.2024) have been released on bail by a Coordinate Bench of this Court. He further contended that the Petitioner stands in an identical footage with the above mentioned two accused persons who were enlarged on bail by this Court. Learned counsel for the Petitioner further contended that the Petitioner has been falsely implicated in the present case. It was also contended that the Petitioner is having some criminal antecedents. In such view of the matter, learned counsel for the Petitioner submitted that the Petitioner be released on bail on any terms and condition which the Petitioner undertakes to abide by while on bail.

5. Learned counsel for the victim on the other hand objected to the release of the Petitioner on bail on the ground that approximately a sum of rupees ten lakhs involved in the alleged theft of coal from the Paradeep Port. Since the investigation is still on learned counsel for the victim submitted that the bail application of the Petitioner be rejected at this juncture.

6. Learned counsel for the State agreed with the victim and also contended that the allegations made in the FIR are serious in nature. It was further contended that the Petitioner is an outsider, therefore, in the event he is released on bail he might abscond justice which might lead to delay in conclusion of trial. Learned counsel for the State opposed the release of the Petitioner in view of the nature and seriousness of allegation made against the Petitioner. Therefore, he submitted that the prayer for bail of the Petitioner be rejected at this juncture.

7. Having heard learned counsel for the respective parties and on careful consideration of the surrounding facts as well as materials on record, and the seriousness and gravity of the allegation and further taking note to the fact that the two of the co-accused persons have already released on bail, and the fact that the Petitioner does not have any similar criminal antecedent, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter.

8. It is further directed that the bail granted to the Petitioners are subject to depositing each of a cash security of Rs.10,000/- (Rupees Ten Thousand) before the learned Court in seisin over the matter, which shall be kept in any Nationalized bank in interest bearing account initially for a period of one year which will be renewable from time to time till conclusion of trial and the same shall be abide by the final outcome of the trial of the case.

9. The release of the Petitioner shall also be subject to following conditions:-

i) The Petitioner shall also file an affidavit before the Trial Court indicating therein his residential details and other details like Aadhar No., Phone No. before the jurisdictional police station and the release of the Petitioner shall be subject to verification of the aforesaid details and such details as would be furnished by any

relative of the Petitioner in the shape of an affidavit.

ii) he shall not indulge in criminal offences while on bail;

iii) shall cooperate with the investigation and appear before the I.O. as and when his presence is required and shall cooperate with the early conclusion of the investigation;

iv) shall appear before the Trial Court on each and every date fixed without fail; and

v) shall not leave the jurisdiction of the trial court without prior permission of the trial court.

vi) shall appear before the local police station once in a fortnight for a period of three months thereafter, once in a month till conclusion of trial.

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

10. It is further directed that the bail granted to the Petitioner is subject to the condition that the court below shall verify whether the Petitioner is having any similar criminal antecedent. In the event it is found that the Petitioner is having more than five similar criminal antecedents, this bail order shall automatically stand revoked.

11. The BLAPL is, accordingly, disposed of.

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