
(2010) 11 OHC CK 0057
In the Orissa High Court
Case No : BLAPL No. 14971 of 2010

Ratnakar Bhoi @ Ratnakar Bhoi

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 01-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Evidence Act, 1872 — Section 27
Penal Code, 1860 (IPC) — Section 302

Citation : (2011) 1 OLR 157

Hon'ble Judges : S.K. Mishra, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.K. Mishra, J.—Heard learned Counsel for the Petitioner as well as the learned Addl. Standing Counsel. Perused the records.

2. The Petitioner has been charge-sheeted for the offence u/s 302 of the I.P.C. in Orient P.S. Case No. 16 of 2010 corresponding to G.R. Case No. 321 of 2010 of the Court of S.D.J.M., Jharsuguda.

3. Initially, an F.I.R. was lodged on 04.03.2010 against unknown accused for having committed murder of one Kishore Pradhan in the night of 3/4.03.2010. In course of investigation, the Investigating Officer gathered material to the effect that the present Petitioner has committed murder of one Kishore Pradhan and therefore submitted charge-sheet against the Petitioner u/s 302 of the I.P.C. The materials on record further reveal that the Investigating Agency while filing charge-sheet against the accused relied on circumstantial evidence, as admittedly, there is no direct evidence in the shape of narration of any eye-witness. The materials further reveal that the circumstances, which are forthcoming in this case, are that in a marriage reception on 03.03.2010 the Petitioner and the deceased quarrelled with each other as the Petitioner demanded back Rs. 500/-, which he had loaned to the deceased. The second

circumstance is that the Petitioner, at the time of returning from the marriage reception, left his companions and went towards pond for attending call of nature. The dead body of the deceased was found on the steps of that pond with multiple bleeding injuries on his face and head. Last circumstance is that of leading to discovery of a stone inside the water on the statement recorded u/s 27 of the Indian Evidence Act, 1872. It is further evident from the record that the Petitioner is a young man aged about 20 years. The Investigating Agency has not reported about existence of any criminal case against him.

4. While considering the Bail Application of a person, accused of a non-bailable offence, the Court exercising jurisdiction u/s 439 of the Code of Criminal Procedure should keep in mind the following consideration:

- (i) The existence of a prima facie against the Petitioner;
- (ii) The nature and gravity of the offence(s) alleged and the severity of the punishment prescribed;
- (iii) The strength and character of materials available on record against the Petitioner;
- (iv) The probability of securing the attendance of the accused at the time of the trial, i.e. reasonable exclusion of any chance of his absconding or fleeing from justice;
- (v) Any apprehension of the accused misusing his liberty by interfering/ tampering with the prosecution evidence, if released on bail;
- (vi) Pendency of any other criminal case against the Petitioner or in other words the criminal antecedents of the Petitioner; and
- (vii) The greater and larger interest of the State and Society.

5. Even in cases where a prima facie case is made out, the Court, in exercise of jurisdiction u/s 439, Code of Criminal Procedure, may in its discretion grant bail keeping in view the strength and character of the materials on record. In this case, as noted earlier, the materials on record are in the nature of circumstantial evidence. No eye-witnesses are available. Furthermore, the Petitioner is in custody since 13.03.2010. The Petitioner being a permanent resident of village-Sanjeb in the district of Jharsuguda, there is hardly any chance of his absconding. Meanwhile, investigation of the case has already been completed and charge-sheet has already been filed. Therefore, there is hardly any chance of the Petitioner to interfere with the investigation or to tamper evidence. However, I hasten to add that not in all cases based on circumstantial evidence, the accused should be released on bail.

6. Keeping the aforesaid consideration in mind, this Court consider it a fit case to admit the Petitioner on bail. Accordingly, the Bail Application is allowed.

7. Let the Petitioner be released on bail on furnishing bail bond of Rs. 50,000/-

(Rupees fifty thousand) with two solvent sureties, each for the like amount, to the satisfaction of the learned S.D.J.M., Jharsuguda with the further conditions that

(i) he shall attend the Court in seisin of the case on each date of posting.

(ii) he shall not leave jurisdiction of the Court in seisin of the case without its express and prior permission; and

(iii) he shall not indulge in any kind of criminal activities while on bail.

Violation of any of the conditions shall entail cancellation of the bail granted to the Petitioner without reference to the Court.

The BLAPL is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.