

(2023) 05 OHC CK 0007
In the Orissa High Court
Case No : Bail Application No. 4677 Of 2023

Sadananda Biswal

APPELLANT

Vs

State Of Orissa

RESPONDENT

Date of Decision : 01-05-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 302

Citation : (2023) 05 OHC CK 0007

Hon'ble Judges : G. Satapathy, J

Bench : Single Bench

Advocate : M. Panda, S.R. Roul

Final Decision : Disposed Of

Judgement

G. Satapathy, J

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an application U/S.439 of Cr.P.C. by the petitioner for grant of bail in connection with C.T. Case No.30 of 2021 arising out of Paikmal P.S. Case No.141 of 2020 pending in the file of learned Addl. Sessions Judge, Padampur, District-Bargarh, for commission of offences punishable under Sections 302/34 of IPC, on the allegation of committing murder of the deceased Jamidar Biswal by means of a spade on the instigation of co-accused persons.
3. In the course of hearing of the bail application, Ms. M. Panda, learned counsel being engaged as Legal Aid Counsel for the petitioner, submits that the petitioner is in custody since 01.09.2020, but the trial is yet to commence and the petitioner is suffering from various ailments and, accordingly, the petitioner was shifted to VIMSAR, Burla for his treatment on different dates. It is further submitted by her that the right to speedy trial is an inseparable and valuable Constitutional Right of the petitioner, but the same has been infringed in this case and, the petitioner therefore, is entitled to bail.

4. On the contrary, Mr. S.R. Roul, learned ASC, however, strongly opposes the bail application of the petitioner and he inter alia submits that there is obviously prima facie material against the petitioner for committing murder of the deceased and the petitioner should not, therefore, be enlarged on bail.

5. After considering 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 implication of the petitioner in this case and regard being had to the observation made by the learned trial Court for non-commencement of the trial for want of M.O. and C.E. report in the order of rejection of bail to the petitioner, but the trial having not progressed till 23.09.2022 even after receipt of C.E. report on 26.07.2022 and taking into account the principle that right to speedy trial is the Fundamental Right of an accused person and, in this case, the petitioner also being represented by a Legal Aid Counsel for moving his bail application before this Court, the bail application of the Petitioner deserves sympathetic consideration.

6. Hence, the bail application of the petitioner stands allowed and he is allowed to go on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety 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

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.

7. Accordingly, the BLAPL stands disposed of.

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

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