

(2024) 05 OHC CK 0090
In the Orissa High Court
Case No : Bail Application No. 2939 Of 2024

Sankar Sahu

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 07-05-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 107, 317, 439
Indian Penal Code, 1860 — Section 34, 323, 364A, 506
Arms Act, 1959 — Section 25

Citation : (2024) 05 OHC CK 0090

Hon'ble Judges : Savitri Ratho, J

Bench : Single Bench

Advocate : Soumya Ranjan Das, M.R. Mishra

Final Decision : Disposed Of

Judgement

Savitri Ratho, J

1.This application under Section 439 of Cr.P.C. has been filed in connection with Kinjirikela P.S. Case No. 125 of 2023 corresponding to S.T. Case No. 312 of 2023 pending in the file of the learned Sessions Judge, Sundargarh where charge sheet has been filed on 30.11.2023 for commission of offence under Sections 364-A, 323, 506 and 34 of IPC read with Section 25 of the Arms Act against the petitioner-Sankar Sahu, co-accused Sanjay Kumar Pradhan and Ashok Apat keeping investigation open.

2. This bail application has been listed before me as BLAPL No. 11090 of 2023 filed by co-accused Ashok Apat had been disposed of by me on 12.10.2023.

3. The prayer for bail of the petitioner has been rejected on 01.03.2024 by the learned Sessions Judge, Sundargarh in S.T. Case No. 312 of 2023.

4. The prosecution allegation in brief is that on 07.08.2023 at about 5.00 P.M. Sarbeswar Das, the husband of the complainant, who was working as Headmaster in Govt. High School at Brahmanmara, Rasti village, Sundargarh,

had been abducted by the accused persons from Brahmanmara bridge. The accused called the complainant from the mobile of her husband and demanded Rs.1,00,000/- and gold ornaments threatening that if it was not paid, her husband would be killed. Thereafter the phone was handed over to her husband who stated that he had been kept at gun point and had been assaulted and unless she comes with cash and gold ornaments, they would kill him. The informant told them that she could at best arrange Rs.50,000/- and was asked to come near Rasti village where a white colour Scorpio bearing Registration No. CG-13AG-9108 was waiting. After she handed over the cash, the accused persons left with the cash and her husband, threatening that if further amount of Rs.50,000/- was not given, her husband would be killed. She informed the Police and the case was registered on 07.08.2023. The petitioner along with one Sankar Sahu and Ashok Apat were apprehended on 08.08.2023 while trying to flee with their Scorpio car and the victim, the victim Sarbeswar Das was rescued.

5. Mr. Soumya Ranjan Das, learned counsel for the petitioner submits that the petitioner is in custody since 08.08.2023. In the T.I.Parade, the victim could not identify the petitioner and the amount of Rs.50,000/- allegedly paid to the accused persons has been recovered. He further submits that his wife Shyama Devi Sahu has filed an affidavit giving details of the six criminal antecedents of the petitioner which shows that five of the cases are under Section 107 of Cr.P.C. and one case i.e. Tumla P.S. Case No. 38 of 2014 is under Section 34(1) of the Excise Act. He further submits that co-accused Ashok Apat in BLAPL No. 14606 of 2023 and co-accused Sanjay Kumar Pradhan in BLAPL No. 1154 of 2024 who stand on similar footing have been granted bail.

6. Mr. M.R. Mishra, learned Additional Standing Counsel opposes the prayer for bail stating that that the petitioner is involved in a serious offence. He further submits that the petitioner belongs to Chhatisgarh and has six criminal antecedents and has been arrested red handed while he was escaping along with the accused persons with the ransom money and trial has begun, it may be difficult to secure his presence during trial.

7. Considering the nature of allegations against the petitioner, the submission of learned counsel for the petitioner that the petitioner does not have similar criminal antecedents, has not been identified in the T.I. parade, co-accused persons standing on the similar footing have been released on bail and as investigation so far as the petitioner is concerned has been completed, I am inclined to allow the prayer for bail.

8. The petitioner- Sankar Sahu shall be released on- bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter after verifying that he does not have any criminal antecedents in Odisha and Chhatisgarh except for the 6 cases out of which 5 cases are under Section 107 of Cr.P.C. and one i.e. Tumla P.S. Case No. 38 of 2014 is under the Excise Act, including the following conditions:

- (i) He will not indulge in any criminal activity while on bail.
- (ii) He will not threaten or try to influence prosecution witnesses while on bail.
- (iii) He will furnish his mobile number, copy of his Aadhar Card and permanent address in Chhatisgarh to the Court, and which shall be verified by the I.O./IIC of Kinjirkela Police Station before he is released on bail. Any change will be reported to the court within one week.
- (iv) He will furnish cash security of Rs.8,500/-.
- (v) He will report before the Tumla Police Station, District:Jashpur, Chhatisgarh once a month preferably on a Sunday between 3.00 p.m. to 5.00 p.m. till conclusion of trial.
- (vi) He will remain present on each date fixed for trial subject to any order passed by the learned trial Court under Section 317 Cr.P.C.
- (vii) He shall not leave District-Sundargarh, without prior permission of the learned trial Court, once the trial starts.

9. Violation of any condition will entail in cancellation of bail/recall of this order.

10. The BLAPL is accordingly disposed of.

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

12. No observation in this order should influence the learned trial Court in any manner during trial as they have been made for the purpose of consideration of the prayer for bail.

13. A copy of this order be supplied to Mr. M.R. Mishra, learned Additional Standing Counsel for onward transmission to the IIC, Tumla P.S., District:Jashpur, Chhatisgarh and Kinjirkela Police Station, Sundargarh.

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

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