

(2024) 04 OHC CK 0260
In the Orissa High Court
Case No : Bail Application No 1512 of 2024

Siba Nag @ Shiba Nag

APPELLANT

Vs

State Of Orissa

RESPONDENT

Date of Decision : 25-04-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 294, 302
Evidence Act, 1872 — Section 27

Citation : (2024) 04 OHC CK 0260

Hon'ble Judges : V. Narasingh, J

Bench : Single Bench

Advocate : J. Sahu, T.K. Praharaj

Final Decision : Disposed Of

Judgement

V. Narasingh, J

1. Heard the learned counsel for the Petitioner and learned counsel for the State.
2. The Petitioner is an accused in connection with G.R. Case No.975 of 2022 pending on the file of learned Sessions Judge, Balangir, arising out of Balangir Sadar P.S. Case No.280 of 2022 for commission of offence alleged under Sections-294/302/34 of the IPC.
3. Learned counsel, on instruction, submits that except the present BLAPL, no other bail application of the Petitioner relating to the aforementioned P.S. case is pending in any other Court.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned 1st Addl. Sessions Judge, Balangir by order dated 12.02.2024 in the aforementioned case, the present BLAPL has been filed.
5. This is the second journey of the Petitioner to this Court. Earlier the bail application of the Petitioner was rejected by order dated 27.02.2023 by this

Court in BLAPL No.1351 of 2023. While doing so, this Court had referred to the statement of two witnesses, namely, Susanta Kuanr(CSW-3) and Kainru Chhanda(CSW-18).

6. It is submitted by the learned counsel for the Petitioner that in the meanwhile the said two charge sheet witnesses have been examined as P.W.3 and 6 respectively and they have not supported the prosecution.

7. It is stated by the learned counsel for the Petitioner that there is discrepancy regarding the role ascribed to the Petitioner in the F.I.R. and in the charge sheet and also refers to the statement of co-accused under Section-27 of the Evidence Act in this regard.

8. It is his further submission that there are materials on record to indicate that the cause of death cannot be attributed to the alleged overt act of the Petitioner even if the entire prosecution case is accepted at the face value.

9. Learned counsel for the State opposes the prayer and submits that during currency of trial, it is not open for the Court to make detail scrutiny of the evidence on record.

10. This Court closely examined the statements of P.W.11 and P.W.13. On scrutiny of the same, this Court is not persuaded to hold that there is no prima facie case against the Petitioner. Hence, this Court is not inclined to entertain the bail application at this stage.

11. Since the Petitioner is stated to be in custody from 07.07.2022 and as the trial is already underway, learned Court in seisin is requested to conclude the trial at an early stage.

12. It is needless to state here that the observations made herein are only for the purpose of consideration of bail and ought not to be construed as this Court expressing any opinion regarding the complicity of the petitioner and the same has to be adjudged independently in the impending trial.

13. Accordingly, the BLAPL stands disposed of.

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