

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 51 of 2022

Maheswar Munda

...

Petitioner

Mr. J. Kamila, Advocate

- Versus -

State of Odisha

...

Opposite Party

Mr. P. Tripathy,

Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

31.01.2022

Order No.

1.

1. This matter is taken up through virtual mode.
2. Heard learned counsel for the petitioner and learned Addl. Standing Counsel for the State.
3. The petitioner is in custody since 16.05.2021 in connection with Bamebari P.S. Case No.57 of 2021 corresponding to S.T. Case No.35 of 2021 pending in the Court of learned Addl. Sessions Judge, Champua for the alleged commission of offence under Section 302 of IPC.
4. The allegation against the petitioner is that he committed the murder of his uncle by assaulting him with a spade causing severe bodily injuries.
5. Learned counsel for the petitioner has drawn attention of the Court to the statement of the informant recorded under Section 161 Cr.P.C. to submit that this is a clear case of domestic quarrel in which the deceased himself was the aggressor and had attempted to assault the petitioner by means of a wooden plank. In course of such assault, the petitioner picked up a spade lying nearby and assaulted the deceased with it causing fatal injuries. It is therefore submitted that the

petitioner's act as above can be treated as one committed in the exercise of his right of private defence.

6. Learned Addl. Standing Counsel has opposed the prayer for bail by submitting whatever may have been the motive, fact remains that the petitioner assaulted the deceased by means of a spade causing serious bodily injuries, which ultimately led to his death.

7. Having considered the submissions made, the materials on record, the period of detention already undergone and in particular, the statement of the informant recorded under Section 161 Cr.P.C., I am inclined to allow the prayer for bail. Let the petitioner be released on bail on such terms and conditions as the court in seisin over the matter may deem fit and proper to impose including the condition that he shall personally appear before the trial Court on each date of posting of the case without fail.

8. BLAPL is accordingly disposed of.

9. As the restrictions due to resurgence of Covid-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No. 4587, dated 25th March, 2020, modified by Notice No. 4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos. 514 and 515 dated 7th January, 2022.

(Sashikanta Mishra)
Judge