

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.208 of 2022

Kalandri @ Kalandi Charan Naik ***Petitioner***
Mr. A.K. Nath, Advocate

-versus-

State of Odisha ***Opposite Party***
Mr. S.K. Nayak, AGA

CORAM:
MR. JUSTICE D.DASH

ORDER
20.10.2022

Order No.

01. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
2. This is the successive journey of this petitioner, who is in custody in connection with Kundheigola P.S. Case No.55 of 2021 corresponding to S.T. Case No.20 of 2021 pending in the Court of the learned Sessions Judge, Deogarh for offence punishable under sections 143/147/148/302/506/149, I.P.C. in filing this application under section 439, Cr.P.C. for his release on bail.
3. Learned counsel for the Petitioner submits that accepting the prosecution version as laid in the F.I.R., the incident cannot be said to have happened under a prior planning by this Petitioner and other accused persons. He submits that admittedly the parties were not in good terms and the allegation against this Petitioner is that he with two others after the deceased fell on the ground receiving Lathi blows from co-accused persons, assaulted him by means of Farsa when the Post Mortem report does not support the same. He, therefore, submits that the version of the prosecution in so far as the role of this Petitioner is concerned appears to be exaggerated. With such materials on record, the Petitioner having remained in custody for quite a long period of time when the trial of the case is also not excepted to be complete so soon in the absence of

any material to suggest that there remains any possibility on the part of the Petitioner to flee from justice and tamper the evidence, he contends that further detention of the Petitioner, who hails from the rural pocket of the District of Deogarh, till conclusion of trial would not be in the interest of justice. He, therefore, urges for reconsideration of the prayer for grant of bail to this Petitioner.

4. Learned counsel for the State opposes the move. According to him, the stage is too premature to evaluate the materials on record in taking a view with regard to the role of this Petitioner in the incident. He, however, placing the Post Mortem report is not in a position to contend that this Petitioner's blow by means of a Tangia as alleged has led to the death of the deceased.

5. Considering the submissions as advanced and on going through the materials as placed; further keeping in view the surrounding circumstances including the factum of detention of the petitioner in custody; while being inclined to reconsider the prayer for grant of bail to this petitioner, it is directed that the petitioner be released on bail in the aforesaid case with such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that:-

- (i) he will appear in person before the court in seisin of the case on each date of posting of the case till conclusion of the trial;
- (ii) will not threaten or terrorize the prosecution witnesses in any manner;
- (iii) will not indulge himself in any criminal activity; and
- (iv) will not leave the jurisdiction of the Court in seisin of the case without prior permission of the court.

6. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

(D. Dash)
Judge