

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.316 of 2022

Gyanendra Nahak @ Nirmal Nahak* *Petitioner

Mr.B.K.Nayak-3,
Advocate

-versus-

State of Odisha* *Opposite Party

Mr. Sitikanta Mishra,
Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER
24.6.2022.

Order No.

02. 1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned Addl. Standing Counsel for the State.
3. The Petitioner is in custody since 14th July, 2021 in connection with Sadar P.S. Case No.108/2021 corresponding to G.R. Case No.419/2021 pending in the court of learned S.D.J.M., Nayagarh for the alleged commission of the offence under Sections 326/307/302 of I.P.C.

4. This is a case of patricide. The Petitioner happens to be the son of the first wife of the deceased. The father and son were on inimical terms for quite some time. On the date of occurrence, it is alleged that the Petitioner assaulted his father with a bill hock (Katuri) causing his death. Learned counsel for the Petitioner submits that the matter has arisen out of a sudden quarrel without any premeditation.

5. Learned Addl. Standing Counsel submits that prior enmity has provided the motive to the Petitioner to commit the crime.

6. A perusal of the statement of witnesses including the eye witness namely, Jyoti Nahak reveals that notwithstanding prior enmity, the incident in question arose out of a sudden quarrel when the deceased snatched away a plank of wood held by accused and also gave a push to his cycle. As a result, the Petitioner became enraged and assaulted the deceased by means of a Katuri causing fatal injuries.

7. From the above facts, prima facie, a definite intention or premeditation on the part of the Petitioner is not made out, rather the entire incident appears to have occurred because of sudden provocation and on the spur of the moment.

8. Considering all the above facts as also taking into account the period of detention of the Petitioner in custody, I am inclined to allow the prayer for bail. Let the Petitioner be released on bail on such terms and conditions as may be

imposed by the court in seisin over the matter in the aforesaid case including the condition that he shall appear before the court below personally on each date of posting of the case without fail and in case of any single default, the said court shall pass appropriate orders to take him to custody again.

9. The BLAPL is disposed of.

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

AKB



(Sashikanta Mishra)
Judge