

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No. 38 of 2022

Panchanana Naik

....

Appellant

*Mr. D. Panda,
Advocate*

-Versus -

State of Odisha and another

....

Respondents

*Mr. R. Tripathy,
Additional Standing Counsel*

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

17.11.2022

Order No.

7.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the appellant and learned counsel for the State.
3. The appellant is in custody since 09.02.2022 in connection with Dharamgarh P.S. Case No. 24 of 2011 corresponding to C.T No. 51 of 2013 pending in the court of learned Addl. Sessions Judge-cum-Special Judge, Dharamgarh for the alleged commission of offence under Sections 452/341/302/201/34 of IPC read with Section 3(2)(v)(va) of SC and ST (PA) Act.
4. It is alleged that the appellant and his family members entered into the house of the deceased while he was having lunch and assaulted him with lathi and other weapons. In so far as the present appellant is concerned, it is alleged that he assaulted the deceased on his head by means of an axe causing his death.
5. Mr. Devashis Panda, learned counsel for the appellant has

argued that firstly, the informant is not an eyewitness; secondly, the so called eyewitnesses were examined two days after the occurrence.

6. It is further submitted by Mr. Panda that the post-mortem report shows that the only injury sustained by the deceased on his head was a laceration which is not possible to be caused by an axe. He further submits that the co-accused persons have been released on bail. It is further submitted that the IO after examining the eyewitnesses two days after the occurrence also had their statement recorded under Section 164 Cr.P.C. apparently to bind them to their 164 of Cr.P.C. statement.

7. I have considered the submissions as above and have also perused the materials on record. The contentions raised by Mr. Panda are such as can only be appreciated during trial. It would suffice for the present to note that there is clear ocular evidence to, prima facie, show commission of the alleged offence by the appellant.

8. In such view of the matter, I am not inclined to allow the prayer for bail, which is therefore rejected.

9. The CRLA is accordingly rejected.

(Sashikanta Mishra)
Judge