

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 843 of 2022

Munu@Nikhil Behera

....

Petitioner

Mr. J.K. Khuntia, Advocate

-Versus -

State of Odisha

....

Opposite Party

*Mr. A. Pradhan,
Additional Standing Counsel*

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

28.02.2022

Order No.

2.

1. This matter is taken up through hybrid mode.
2. Heard learned Senior Counsel for the petitioner and learned Additional Standing Counsel for the State.
3. The petitioner is in custody since 04.11.2021 in connection with Balasore Sadar P.S. Case No. 354 of 2021 corresponding to C.T. Case No. 920 of 2021 pending in the court of learned J.M.F.C., Rural, Balasore for the alleged commission of offence under Sections 302/34 of IPC read with Sections 25 and 27 of the Arms Act.
4. The prosecution allegation is that a group of persons being armed with deadly weapons like pistol etc. committed the murder of the deceased in broad day light.
5. It is submitted by Mr. J.K. Khuntia, learned counsel that there is absolutely no allegation in so far as the present petitioner is concerned. Even as per the prosecution story, the assault on the deceased was not by the petitioner but by some other persons and the only allegation against him is that he was part of a conspiracy prior to

the date of occurrence to kill the deceased. Referring to the statement of the eyewitness recorded under Section 161 of Cr.P.C., namely, Dibyadarshan Sethi, it is submitted that the name of the petitioner does not find mention as far as the assault on the deceased is concerned.

6. Learned Additional Standing Counsel has opposed the prayer for bail by submitting that though there is no allegation of assault by the petitioner as such, yet there are adequate materials to show that he was present at the spot.

7. Considering the submissions made, the materials on record and the fact that even as per the prosecution case, no specific overt act has been attributed to the petitioner, 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, failing which necessary order shall be passed to take him into custody again. Further, he shall appear before the IIC of Balasore Sadar Police Station once in every fortnight for a period of six months.

8. The BLAPL is accordingly disposed of.

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

(Sashikanta Mishra)
Judge

B.C. Tudu