

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 1006 of 2022

Barada Behera @ Aud Jani

....

Petitioner

Mr. S. Mishra, Advocate

- Versus -

State of Odisha

.... Opposite Party

Mr. S.K.Mishra, Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

26.08.2022

Order No.

4.

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 16.10.2021 in connection with Raghunathpur P.S. Case No.142 of 2021 corresponding to G.R. Case No.135 of 2021 pending in the Court of learned Grama Nayadhikari, Raghunathpur for the alleged commission of offence under Sections 302/34 of IPC.
4. The allegation is that the petitioner along with some other persons severely assaulted the deceased and the informant, whereby, the deceased died at the spot while the informant sustained bodily injuries. From the FIR and Section 164 statement of the informant it appears that the entire incident arose out of a trivial issue which can at best be termed as road-rage. In course of quarrel between the informant and the deceased on one hand and one Babu and Jani on the other, some blows were exchanged and thereafter on being called by the said Babu and Jani, 10 to 15

villagers came to the spot including the present petitioner, all of whom are said to have been assaulted the deceased and the informant.

5. Considering the prosecution allegation as laid and accepting the same on the face value, prima facie a case under Section 302 is difficult to be made out, particularly in the absence of any evidence regarding premeditation or intention on the part of the accused to do away with the life of the deceased.

6. Having regard to the above fact and the period of detention of the petitioner in custody and the fact that the case has been committed to the Court of Session, 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 and in case of even a single default, necessary orders shall be passed by the said Court to take him to custody again.

7. BLAPL is accordingly disposed of.

8. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge

A.K. B c