

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 1058 of 2022

Pratap Singh

.... **Petitioner**
Mr. A. Bhoi, Advocate

- Versus -

State of Odisha

.... **Opposite Party**
Mr. S.K. Mishra, Addl. Standing Counsel

CORAM:
JUSTICE SASHIKANTA MISHRA

ORDER
08.04.2022

Order No.
5.

1. This matter is taken up through hybrid mode.
2. Pursuant to order dated 06.04.2022, the I.O., Ms Itipriya Das, S.I. of Police, Soro Police Station is present in person and files an affidavit. In the said affidavit it is stated under paragraph-3 that though time and again letters have been issued by the Office of the learned Advocate General, Odisha, Cuttack on several occasions for production of case diary, she has not received any letter to that effect till date.
3. In response, Mr. Mishra, learned Addl. Standing Counsel submits that all such communications were made through email and in all probability, the e-mail account was not opened and accessed by the I.O.
4. Since this has become almost a regular feature in several cases, this Court is of the considered view that the concerned authorities should take note of the above communication gap between the office of the advocate general and the police stations.
5. In so far as the present case is concerned, the up to date case diary is produced, therefore, while dispensing with the personal

appearance of Ms. Itipriya Das, this Court cautions her to be more careful in future and to abide by orders of this Court with due promptitude and diligence.

6. A copy of this order be forwarded to the Director General of Police, Odisha for taking note of the lapses and to issue necessary instructions to all concerned.

7. Heard learned counsel for the petitioners and learned Addl. Standing Counsel for the State.

8. The petitioner is in custody since 02.05.2021 in connection with Soro P.S. Case No.178 of 2021 corresponding to S.T. Case No.4/166 of 2022/2021, now pending in the Court of learned 2nd Addl. Sessions Judge, Balasore for the alleged commission of offence under Sections 302/201/34 of IPC.

9. The prosecution case is that the deceased had forcibly entered into the house of the petitioner while he was absent and committed rape on his wife, which was witnessed by one Meena Singh. The said Meena Singh informed the petitioner of the above fact. Hearing this, he and some other villagers became enraged and tied the petitioner to a tree. Subsequently, the petitioner took his wife to the hospital for treatment, whereupon his wife also lodged FIR against the deceased. In the meantime, because of assault by the petitioner and the other villagers, he expired. As it appears no specific overt act has been attributed to the petitioner rather, the materials on record show that the deceased was assaulted by a mob. Even assuming the prosecution allegation on its face value, the fact that there was grave and sudden provocation on the part of the deceased, prima facie, a case of murder may not be made out.

10. Having regard to the above circumstances, the period of detention in custody and the fact that charge sheet has already been

submitted, 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 without fail.

11. BLAPL is accordingly disposed of.

12. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge

A.K. Rana

