

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.1212 of 2022

Mangal Rout

.... ***Petitioner***
Mr. S. Dwibedi, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. S.R. Roul, ASC

**CORAM:
JUSTICE G. SATAPATHY**

Order No.

**ORDER
14.11.2022**

- 06.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the petitioner for grant of bail in connection with Belpada P.S. Case No.149 of 2020 corresponding to Sessions Case No.17 of 2021 arising out of G.R. Case No.555 of 2020 pending in the Court of learned Additional Sessions Judge, Patnagarh for commission of offences punishable under Sections 147/341/302/307/148/149 of I.P.C., on the allegation that on 11.07.2020 at about 4 P.M., the petitioner and others having formed an unlawful assembly being armed with axe, bhujali, iron crowbar and thenga attacked the deceased Motilal Banchhor and Chhandamani Banchhor near their village pond and also attempted to kill Hemanta Banchhor and Kailash Banchhor by giving blows by means of tabli (sharp cutting weapon) in prosecution of their common object.
 3. In the course of hearing of the bail application, Mr. S.

Dwibedi, learned counsel for the petitioner submits that out of six accused and one child in conflict with law all have been granted bail except the petitioner and the material allegation on record reveals assault and counter assault between two groups of village and in such transaction, the petitioner had also sustained injuries but without specifically attributing any allegation against the petitioner for committing murder, the informant has falsely foisted a case against the petitioner. It is further submitted by him that the petitioner is inside custody since 11.07.2020 and trial is yet to commence and co-accused persons having already been granted bail, the present petitioner may also be granted bail at least on the principle of parity.

4. In repelling the submissions advanced for the petitioner, Mr. S.R. Roul, learned Additional Standing Counsel for the State submits that witnesses Madan Banchhor and Baikuntha Banchhor have seen the occurrence and they have stated in their statement that the petitioner had dealt a blow by means of tabli (sharp cutting weapon) resulting in death of one of the deceased namely Motilal Banchhor. It is further submitted by him that the petitioner is the main protagonist of the present dispute as he had instigated others to attack the deceased for issue relating non-payment of wages to him for driving the tractor of the deceased and the allegation on record prima facie disclosing a case of commission of murder against the petitioner, no leniency be extended to the petitioner to grant bail to him. It is accordingly prayed by him to reject the bail application of the petitioner.

5. Mr. S. Dwibedi, learned counsel for the petitioner by way of clarification submits that Madan Banchhor and Baikuntha Banchhor are not the eye witnesses to the occurrence and they have reached to

the spot after the occurrence and in this case, there is no eye witness to the occurrence and the petitioner has been implicated in this case on the basis of his disclosure statement and recovery of weapon of offence and he already having detained in custody for more than two years, may kindly be released on bail.

6. There appears no dispute about the release of co-accused persons on bail, but on a conspectus of material on record, it appears to the Court that the present petitioner does not stand in similar footing with co-accused persons released on bail.

7. Considering the rival submissions made, nature and gravity of accusations together with the gravity of offence and manner and circumstance of the commission of the crime resulting in death of two persons and keeping in view that the alleged dispute arose out of an issue relating to non-payment of wages to the petitioner and the specific allegation levelled against the petitioner and the circumstance of the crime and regard being had to the cause of death of two persons as mentioned in their post mortem report, this Court is not inclined to grant bail to the petitioner.

8. Hence, the prayer for bail of the petitioner stands rejected. Needless to say that the petitioner may renew his prayer for bail after examination of the so called eye witnesses as submitted by learned counsel for the petitioner.

9. Accordingly, the BLAPL stands disposed of.

10. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge