

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 1546 of 2022

Sanjay Mallick

.... **Petitioner**
Mr. J.K Majhi, Advocate

- Versus -

State of Odisha

.... **Opposite Party**
Mr. P.K. Maharaj, Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

25.04.2022

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 26.03.2021 in connection with Balaramgadi Marine P.S. Case No.03 of 2021 corresponding to C.T. Case No.203 of 2021 pending in the Court of learned S.D.J.M., Balasore for the alleged commission of offence under Sections 302/34 of IPC read with Section 25 and 27 of Arms Act.
4. The prosecution allegation is that the petitioner being associated with several other persons brutally assaulted the deceased by means of deadly weapons and guns causing his death.
5. It is submitted that the petitioner has been named by some of the eye-witnesses only to the extent that he was present at the spot holding a *katari*, but no specific over act has been attributed to him. It is further submitted that several co-accused persons, namely, Sk. Abdul Asif @ Lucky, Babula @ Sk. Rohit and Sapan Kumar Tapsi have been released on bail as per the order passed by this Court in BLAPL Nos. 6217 of 2021, 4009 of 2021 and 8582 of

2021 respectively.

6. A reading of the statement of the witness, Mitu @ Digbijay Jena, clearly shows that the petitioner was not only present at the spot of occurrence but also was carrying a *katuri* in his hand. As such, he is to be treated as being part of the group that assaulted the deceased causing fatal injuries. Hence, prima facie he becomes equally liable as the other assailants. In so far as the accused persons, who have already been granted bail, it is seen that they were implicated either on the basis of the statement of the co-accused or on their own confession and in any event there is no allegation that they had assaulted the deceased.

7. Having regard to the facts and circumstances as noted above and the availability of material prima facie showing the complicity of the petitioner in the occurrence, I am not inclined to allow the prayer for bail, which is therefore, rejected. It is open to the petitioner to renew his prayer after examination of some material witnesses in the case.

8. BLAPL is accordingly rejected.

(Sashikanta Mishra)
Judge

A.K. Rana