

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 3397 of 2022

Mita Naik @ Swain

....

Petitioner

Mr. B. Sahoo, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

17.08.2022

Order No.

05.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is an accused in G.R. Case No.478 of 2020 further corresponding to S.T. Case No.18/35 of 2021, pending on the files of S.D.J.M. Nayagarh, arising out of Nayagarh Sadar P.S. Case No.124 of 2020, under Sections 302/109/34 of IPC.
4. Being aggrieved by the rejection of her application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Nayagarh, by order dated 11.04.2022 in the aforementioned case, the present BLAPL has been filed.
5. Relying on the release of the co-accused Krushna Chandra Swain@ Kalu in BLAPL No.7518 of 2021 and Bhagban @ Bhagia Behera in BLAPL No.1064 of 2022 petitioner seeks release inter alia on the ground of parity.

6. This Court had occasion to peruse the orders passed by the Coordinate Bench.
7. Learned counsel for State has placed on record the statement of one Kukumadei and Sudarsan Majhi and Tikina Naik and perused the Postmortem report, the statements clearly indicate the genesis of the offence and postmortem testifies that the deceased was done to death.
8. Taking into account the supervening circumstances in which the offence has been committed and the statement of petitioner recorded under Section 27 of the Evidence Act, this court is of the considered opinion that the petitioner is not similarly circumstanced and the manner in which offence is committed, petitioner is not entitled to the benefit of the Proviso under Section 437 (1) of the Cr.P.C.
9. Hence, this Court is not inclined to entertain this application. The same accordingly stands rejected.
10. Accordingly, the BLAPL stands disposed of.
11. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

Santoshi