

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.3459 of 2022**

***Kirtan Sethy***

.... ***Petitioner***  
***Mr.S.P.Das, Advocate***

***-versus-***

***State of Odisha***

.... ***Opp. Party***  
***Mr.M.K.Mohanty, A.S.C..***

**CORAM:**

**JUSTICE A.K. MOHAPATRA**

**ORDER**

**07.09.2022**

**Order No.**

- 04.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
  2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Parjang P.S.Case No.238 of 2021, corresponding to C.T.(Ss) Case No.77 of 2021 pending in the file of the learned Additional Sessions Judge, Kamakhyangar, for commission of alleged offences under Sections 294, 302/34 of the Indian Penal Code.
  3. Heard learned counsel for both the parties. Perused the F.I.R., Case Diary and statement of witnesses.
  4. It is submitted by the learned counsel for the Petitioner that there exist a previous civil dispute between the deceased and the Petitioner family. On the date of occurrence both the families had a scuffle, as a result of which the Petitioner along with his wife and daughter assaulted the deceased by means of fist blows. He further submits that

no weapon of offence has been used in assaulting the deceased. The intention of the Petitioner was not to cause death. Neither he has any knowledge to give fist blow to the deceased, who is succumbed to the injuries. It is further submitted by the learned counsel for the Petitioner that co-accused persons Bhabani /Sethy and Suna @ Baisakhi Sethy have already been released on bail. It is further submitted by the learned counsel for the Petitioner that in earlier round of bail application i.e. BLAPL No.8531 of 2021, the aforesaid two petitioners have been released on bail. So far as the present petitioner is concerned, learned counsel for the Petitioner was permitted to withdraw the bail application. However, after withdrawal of the bail application in the previous occasion after filing of charge sheet again moved the learned court below. Learned Court below rejected the subsequent bail application of the Petitioner.

5. Learned Additional Standing Counsel on the other hand opposes the prayer of bail on the ground that there is materials to show that the Petitioner and other accused persons had assaulted the deceased. However learned Additional Standing Counsel submits that the bail application of the Petitioner be ejected at this juncture.

6. Having regard to the facts and circumstances of the case, considering the nature and gravity of the offences alleged and further taking into consideration of the fact that no weapon of offence was used while assaulting the deceased and it was only by hand, further considering the fact that co-accused persons have been released on bail, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following conditions:

- i) He shall not involve himself in any other offence during the period of bail.
  - ii) He shall appear before the trial court on each and every date as fixed by the Court.
  - iii) He shall not tamper with the prosecution evidence.
  - iv) He shall not influence or threaten any prosecution witness and cooperate with the investigation.
  - v) Violation of any of the conditions shall entail cancellation of bail.
7. It is further directed that the Court in seisin over the matter to impose any additional condition, if situation so warrants.
8. With the above direction the BLAPL is accordingly disposed of.
9. Issue urgent certified copy of this order as per Rules.

