

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3954 of 2022

Kalu @ Umesh Dalai

.... ***Petitioner***
Mr. D. Nayak, Sr. Advocate

-versus-

State of Odisha

.... ***Opp. Party***
Mr. P.K. Pattnaik, AGA

CORAM:
JUSTICE G. SATAPATHY

ORDER
15.12.2022

Order No.

- 03.
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 C.T. Case No.108 of 2022 arising out of Soro P.S. Case No.47 of 2022 pending in the file of learned J.M.F.C., Soro for commission of offences punishable under Sections 379/294/506/354/307/323/34 of IPC, on the allegation of committing murder of the deceased.
 3. In the course of hearing of the bail application, Mr. D. Nayak, learned Senior Counsel for the petitioner submits that there was some land dispute between the parties and out of such land dispute, when the informant came and protested in the house of the petitioner, a scuffle thereby took place, but there was neither any intention on the part of the petitioner to kill the deceased nor had he assaulted the deceased on any vital part and even if the allegations on record are considered, no case U/S.302 of IPC is made out against the

petitioner, who is in custody since 26.01.2022 and, in the meanwhile, after closure of investigation, charge-sheet has already been submitted, but the FIR was lodged against the petitioner and others for offence U/S.307 of IPC and some other offences and the deceased died around fifteen days after the incident. Learned Senior Counsel also submits that out of three accused persons, two have already been granted bail by this Court and the accused persons who have been granted bail by this Court also stands on similar footing with the petitioner. On the aforesaid submissions, learned Senior Counsel prays to grant bail to the petitioner.

4. On the contrary, Mr. S.S. Pradhan, learned A.G.A. while not disputing about the present petitioner to be standing on similar footing with that of co-accused released on bail, but, he, however, opposes the bail application of the petitioner by placing the statement of Sukanti Dalai and he, accordingly, prays to reject the bail application of the petitioner.

5. Considering the rival submissions made, taking into consideration the nature and gravity of the accusations raised against the petitioner and the pre trial detention of the petitioner since 26.01.2022 and taking into consideration the other circumstance on record including the fact that the deceased had undergone treatment for near about fourteen days in hospital before his death and regard being had to the release of co-accused namely Niranjana Dalai and Sidhanta Dalai on bail and further taking into consideration the other circumstance on record in entirety, this Court considers that the petitioner is also entitled to the benefit of parity.

6. Hence, the prayer for the bail of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of

Rs.25,000/- (Rupees Twenty Five Thousand) with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with and that he shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the petitioner without further reference to this Court, if any of the above conditions are violated or a case for cancellation of bail is otherwise made out.

7. Accordingly, the BLAPL stands disposed of.
8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subhasmita

