

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3998 of 2022

Lipu @ Rajesh Pradhan

....

Petitioner

Mr. D. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.R.Mishra

Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

16.9.2022.

Order No.

03.

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 29th December, 2021 in connection with Chandanpur P.S. Case No.205/2020 corresponding to G.R. Case No.2313/2020 pending in the court of learned Gramyanyayalaya, Puri for the alleged commission of the offence under Section 302/34 of I.P.C.

4. It is alleged that the Petitioner in association of his parents and younger brother assaulted the deceased, who is his paternal uncle, causing his death. As it appears, the entire incident arose out of a prior civil dispute relating to user of land. It is submitted by Mr. Panda, learned counsel appearing for the Petitioner that the prosecution witnesses have spoken differently as regards the place of occurrence as also the main assailant, whose blow on the head of the deceased caused his death. Elaborating on his argument, Mr. Panda submits that while one set of witnesses claim that the occurrence took place near the agricultural field, another set of witnesses say that the occurrence took place on the road. That apart, while the fatal blow appears to have been struck on the head by Ganesh Pradhan, there is no specific evidence against the present Petitioner as having caused any such injury. The Post mortem report reveals three injuries, out of which one is on the left arm of the deceased, which is also a contusion and therefore, not fatal in nature.

5. Mr. M.R. Mishra, learned Addl. Standing Counsel for the State, has opposed the prayer for bail by submitting that notwithstanding the discrepancies pointed out by Mr. Panda, fact remains that there are materials to show that the Petitioner was also a part of the group that assaulted the deceased. Moreover, the Petitioner has criminal antecedents to his name.

6. I have considered the rival submissions and have gone through the materials on record. There is considerable force in the submission of Mr. Panda that there is variance in the statements of the witnesses as regards the place of occurrence. There is also no clear cut evidence as to who struck the fatal blow. Even otherwise, there is no material to suggest that the act was actuated with a definite motive to do away with the life of the deceased.

7. Taking into consideration all the above facts as also the period of detention in custody, I am inclined to allow the prayer for bail. Let the Petitioner be released on bail on such terms and conditions as may be imposed by the court in seisin over the matter in the aforesaid case including the condition that he shall personally appear before the court below on each date of posting of the case without fail. Further, he shall also appear before the I.I.C. of Chandanpur P.S. on every Sunday at 10.00 A.M. till conclusion of trial and such fact shall be certified by the I.I.C. to the concerned Court once in a month.

8. The BLAPL is disposed of.

9. Urgent certified copy of this order be granted on proper application.

AKB

(Sashikanta Mishra)
Judge

