

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.5568 of 2022

***Badal Kumar Sahoo @ Badal
Sahoo***

....

Petitioner

Mr.Rajjeet Roy, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr.S.Patra,A.S.C.

*Mr.Jyoti Patnaik, Advocate for
informant*

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

17.10.2022

Order No.

- 04.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. The Petitioners are apprehending his arrest for the alleged commission of offence under Sections 302/34 of the Indian Penal Code in G.R.Case No.452 of 2022 arising out of Khurda Sadar P.S.Case No.47 of 2022 of the Court of the learned S.D.J.M., Khordha.
 3. It is submitted by Mr.Ray, learned counsel for the Petitioner that due to release of waste water from the house of the present Petitioner, a dispute arose between the Petitioner's family and the informant's family, as a result of which a scuffle took place between the two families. It is further submitted by the learned counsel for the

Petitioner that out of sudden provocation, the deceased was assaulted by slaps, fist blows and kicks. The deceased fell down at the spot and then he was shifted to hospital, where he was declared dead. It is further submitted by the learned counsel for the Petitioner that the deceased had a pre-deceased disease of hypertrophic. Further, it is submitted by the learned counsel for the Petitioner that on careful examination of the P.M. report it is found that there is no external injury on the part of the deceased and the cause of death is stated to be trauma caused due to kick blows on the belly.

4. Learned counsel for the informant submits that the deceased was brutally assaulted by means of fist blows, as a result of which he sustained internal injury for which the deceased died at the spot. On such ground the informant opposes the prayer for bail of the Petitioner.

5. Learned counsel for the Petitioner submits that the deceased was assaulted by means of fist blows. However, the Doctor has opined that the cause of death was due to kick blows on the belly resulting in trauma. It is further submitted by the learned counsel for the Petitioner that some of the accused persons stand on similar footing have already been released on bail by this Court in BLAPL No.5382 of 2022 by order dated 29.09.2022.

6. Considering the facts of the case, this Court is not inclined to grant anticipatory bail to the Petitioner.

7. However, on the submission of the learned counsel, the Petitioner is given liberty to surrender before the learned S.D.J.M., Khordha in the aforesaid case in the first hour within 21 working days hence and move for bail. On such event, the learned Magistrate

shall consider his application for bail in the first hour strictly on the basis of the materials on record. In case of rejection of the bail application, the Petitioner may move for bail before the higher forum in the second hour. On such event, the higher forum shall consider and dispose of the bail application of the Petitioner on the same day strictly on the basis of the materials on record by maintaining the principles of parity, if applicable.

8. Case Diary be made available to the concerned courts. Records be transmitted to the higher forum at the cost of the Petitioner, if applied for.

9. The ABLAPL is accordingly disposed of.

10. Issue urgent certified copy of the order as per Rules.



RKS