

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 5014 OF 2022

Faruk Khan @ Faru Khan

***..... Petitioners
Mr. Akash Bhuyan, Advocate***

-versus-

State of Odisha

***..... Opposite Parties
Mr. A. Pradhan, ASC***

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
29.07.2022**

Order No.

03.

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 connection with S.T. Case No.52 of 2022 arising out of Dargha Bazar P.S. Case No.79 of 2021, pending on the file of the learned 2nd Addl. Sessions Judge, Cuttack for the alleged commission of offence under Sections- 341/323/506/302/34 of the I.P.C.
4. Being aggrieved by the rejection of his application for bail U/s. 439 Cr.P.C. by the learned 2nd Addl. Sessions Judge, Cuttack by Order dtd. 17.05.2022 in S.T. No.52 of 2022, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that after the date of occurrence i.e., 22.10.2021, the petitioner was admitted in City Hospital and thereafter against the medical examination he went to home and came to the Police Station on 23rd of October,

2021 and lodged the F.I.R. in question and unfortunately died on in the night of 23.10.2021.

6. It is submitted that the death of deceased is primarily because of the negligence of the deceased not heeding to medical advice and as such the petitioner cannot be held responsible for the death of the victim.

7. It is further submitted that because of the conduct of the deceased, there was counter case filed in which the deceased has been cited as an accused.

8. It also submitted that the nature of injuries are not sufficient in the ordinary course of nature to cause death and as such the case under Section-302 I.P.C is not at all made out.

9. It is seen that, in the case at hand the statement of the deceased was record under Section-161 Cr.P.C. It has been placed extensively by the learned counsel for the petitioner. On perusal of the such statement it can be seen that the present petitioner who repeatedly obstructed the deceased and facilitated the others to inflict blows and overt act is also attributed to him.

10. Considering the nature of allegation and the statement of the deceased and there being no mitigating circumstances as canvassed by the petitioner, this court is not inclined to entertain this application, the same stands rejected.

11. It shall be open to the petitioner to renew his prayer at a later stage, if so advised.
12. The Bail Application thus stands disposed of.
13. Urgent certified copy of this order be granted as per rule.

Balaram

*(V.Narasingh)
Judge*

