

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5357 of 2022

Silu @ Chinmaya Sahu

.... ***Petitioner***
Mr. P.K. Sahoo, Advocate

-versus-

State of Odisha

.... ***Opp. Party***
Mr. S.R. Roul, A.S.C.

BLAPL No.5066 of 2022

Tanua @ Chinmaya Kumar Dhal

.... ***Petitioner***
Mr. A. Dash, Advocate

-versus-

State of Odisha

.... ***Opp. Party***
Mr. S.R. Roul, A.S.C.

CORAM:
JUSTICE G. SATAPATHY

ORDER
14.11.2022

Order No.

BLAPL No.5357 of 2022 & BLAPL No.5066 of 2022

- 03.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Since these bail applications of the petitioner Silu @ Chinmaya Sahu in BLAPL No.5357 of 2022 and the petitioner Tanua @ Chinmaya Kumar Dhal in BLAPL No.5066 of 2022 arise out of one order from the same case, both the bail applications are heard together and disposed of by this common order with the consent of the parties.
 3. These are applications U/S. 439 of Cr.P.C. by the petitioners

for grant of bail in connection with Tangi P.S. Case No.1 of 2022 corresponding to G.R. Case No. 18 of 2022 pending in the Court of learned J.M.F.C.(R), Cuttack for commission of offences punishable under Sections 294/506/302/34 of IPC, on the allegation of abusing, assaulting, threatening as well as attempting to the life of the deceased by means of an iron rod which resulted in his death.

4. In the course of hearing of the bail applications, Mr. P.K. Sahoo, learned counsel for the petitioner-Silu @ Chinmaya Sahu, submits that although the deceased died two to three days after the occurrence in which he was assaulted by means of object stated to be an iron rod, but later on the prosecution has come up with another story that the deceased was assaulted by means of a stone, and the fact remains that the deceased being as specially abled person was sitting on the top of an alter of the village and probably he might have accidentally slipped there from and sustained injury on his head. It is further submitted by him that the informant is not the eye witness of the occurrence but he has gathered information and lodged the FIR immediately after five hours of the occurrence and even if, the allegations are considered to be true, no offence U/S.302 of IPC is attracted against the petitioner. It is further stated by him that since there is no allegation against the petitioner for assaulting the deceased, he is absolved from any liability of the criminal prosecution. Learned counsel for the petitioner while praying to grant bail to the petitioner also submits that the petitioner has been falsely implicated in this case and he is no way connected with the commission of crime, rather the deceased died accidentally in the new year celebration held in the village. It is accordingly prayed by him to grant bail to the petitioner.

5. Echoing the above submissions of the petitioner in BLAPL

No.5357 of 2022, Mr. A. Dash, learned counsel for the petitioner-Tanua @ Chinmaya Kumar Dhal, submits in a different way that there was a new year celebration in the village and since the village was divided amongst two groups and in such celebration, the petitioner has got accidentally felled on the ground sustaining some kind of injuries on his head, but the petitioner is no way connected with the commission of crime, rather the petitioner being a politically active person has been falsely implicated in this case. It is further submitted by him that on the existing materials on record, no liability U/S.302 of IPC would be attracted against the petitioner, rather at best a case U/S.304 of IPC can be stated to be made out on the materials on record and that too, not against the petitioner. It is further submitted by him that the petitioner is inside custody since 04.01.2022 and the post mortem report discloses one injury on the head of the deceased, which might be the cause of death of the deceased but the petitioner being not responsible for such, may be admitted on bail.

6. On contrary, Mr. S.R. Roul, learned Additional Standing Counsel for the State, however, strongly opposes the bail application of both the petitioners and he by placing the statements of some witnesses submits that the deceased was assaulted by means of a stone which caused the death of the deceased, no matter that the deceased died after two to three days of the occurrence, but the materials on record strongly makes out a prima facie case against both the petitioners for commission of murder of the deceased. It is further submitted by him that the petitioner-Tanua @ Chinmaya Kumar Dhal is a habitual offender and he has some criminal antecedents to his credit. It is accordingly prayed by him to reject the bail application of both the petitioners.

7. Considering the rival submissions made for the parties, nature and gravity of accusation, the circumstance under which the offence was stated to have been committed, the nature of injuries noticed on the person of the deceased and regard being hard to the pre trial detention of the petitioners and keeping in view the nature of injuries sustained by the deceased on his head and taking into consideration that no material being placed on record that the petitioners would abscond or tamper with the prosecution evidence, this Court admits both the petitioners to bail.

8. Hence, the prayer for the bail of both the petitioners stands allowed and the petitioners are allowed to go on bail on furnishing bail bonds of Rs.50,000/-each with two solvent sureties 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 petitioners shall attend the trial Court on each date of posting without fail unless their attendance is dispensed with and that they shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

9. Accordingly, the BLAPL stands disposed of.

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

(G. Satapathy)
Judge

Subhasmita