IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5166 of 2022

Jagannath Pradhan .... ***Petitioner***
M/s.K.C.Behera, Advocate

-versus-

State of Orissa .... ***Opp. Party***
M/s.P.K.Patnaik, A.G.A.

CORAM:
JUSTICE G. SATAPATHY

ORDER
04.11.2022

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 Khallikote P.S. Case No.713 of 2021 corresponding to G.R. Case No.1573 of 2021 pending in the Court of learned J.M.F.C., Khallikote for commission of offence punishable U/Ss. 294/323/324/302/427/34 of the I.P.C. on the allegation of assaulting the deceased and committing his murder.

3. In the course of hearing of the bail application, Mr.K.C.Behera, learned counsel for the petitioner submits that owing to a petty trivial dispute in a cricket match, there was assault and counter assault between two groups of people and the petitioner was roped in commission of murder of the deceased but in reality he has not assaulted anybody. It is further submitted that even if the materials on record are considered to be true, no offence U/S. 302 of I.P.C. is attracted against the petitioner since the incident had taken place on the spur of the moment as there was a free fight between

two groups of people and the petitioner had allegedly assaulted the head of the deceased by means of a bamboo lathi without premeditation which resulted in death of the deceased after some days of the treatment. It is also submitted that the petitioner is inside custody since 06.01.2022 and co-accused persons standing on similar footing have already been granted bail in BLAPL No. 5197 of 2022 and 5196 of 2022. Learned counsel for the petitioner under the aforesaid submissions prays to enlarge the petitioner on bail.

4. On the contrary, learned counsel for the State seriously opposes the bail application of the petitioner and he inter alia submits that the petitioner had not only assaulted the deceased but also had killed the deceased with pre-arranged plan by entering into conspiracy with others. It is further submitted that co-accused persons released on bail are not standing on similar footing as there was some omnibus allegations against co-accused persons released on bail whereas main allegation of assault is directed against the petitioner. It is further submitted that since the petitioner had assaulted on the head of the deceased by means of a bamboo lathi, he should not be enlarged on bail by extending the principle of parity.

5. Considering the rival submissions advanced, taking into account the manner and circumstance of alleged assault as also death of the deceased after some days of the treatment and keeping in view the released of co-accused persons on bail and regard being had to pre-trial detention of the petitioner since 06.01.2022 and completion of investigation and further taking into consideration the manner and circumstance of commission of the offence, this Court considers the bail application of the petitioner favourably.

6. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on furnishing bail bonds of Rs.50,000/-

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 not leave the jurisdiction of the learned trial Court without prior permission till conclusion of the trial and the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge

Kishore