

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5283 of 2022

Raju Khilla

Petitioner

....
M/s. A.N.Pattanayak, Advocate

-versus-

State of Orissa

Opp. Party

....
M/s.P.K.Patnaik, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

10.11.2022

Order No.

- 02.
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 Pottangi P.S. Case No.37 of 2021 corresponding to C.T. Case No.105 of 2021 pending in the Court of learned S.D.J.M., Koraput for commission of offence punishable U/Ss. 302/143/147/149 of the I.P.C. on the allegation of doing away with life of Ramananda Khilla by assaulting conjointly along with other accused persons in prosecution of their common object.
 3. In the course of hearing of the bail application, Mr.A.N.Pattanayak, learned counsel for the petitioner submits that the allegation of giving fist blow on the head of the deceased was directed against co-accused Satyananda Santa @ Satya Santa who has already been granted bail in BLAPL No. 8590 of 2021 but the only allegation appearing against the petitioner is his presence at the spot and even if the material allegations on record are accepted at the face value, no offence U/S. 302 of I.P.C. cannot be stated to be made out against the petitioner in view of the absence of any mens rea and at best a case of culpable homicide not amounting to murder can be

attracted against others but, not against the present petitioner since he has not shared any common intention nor was his presence at the spot in prosecution of the common object. It is also submitted that the petitioner having detained in custody and charge sheet has already been filed, there appears no necessity for further detention of the petitioner in judicial custody and the petitioner, therefore, may kindly be released on bail.

4. On the contrary, learned counsel for the State by placing the opinion of doctor stated in post mortem report submits that the deceased died on account of injuries to spinal cord which he sustained by the assault of the petitioner and others and merely because there is no specific allegation against the petitioner for giving fist blows to the deceased it would not *per se* exonerate the petitioner in this case in view of the fact that the petitioner and others had attacked conjointly in prosecution of their common object. It is accordingly prayed to reject the bail application of the petitioner.

5. Considering the rival submissions, the circumstance under which the occurrence took place, the manner and circumstance of assault by way of some fist blows and the nature of injuries sustained by the deceased as per post mortem report and keeping in view the release of co-accused persons namely, Satya Santa, Bikram Duria, Raju Khara in BLAPL No. 8590 of 2021, 7955 of 2021 and 7705 of 2021 and the fact that the nature of allegations stated against the petitioner in the F.I.R. and the role alleged against him out of five persons in the F.I.R., 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.25,000/-

with two solvent sureties each for the like amount to the satisfaction of the learned trial 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

