

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV No.246 of 2021

Abu Salem Nag

....

Petitioner

Mr.S.K.Dwibedi, Advocate

Versus

1.State of Odisha

2.Linga Jani

....

Opp. Parties

Mr.P.C.Das, ASC
(for O.P. No.1)

CORAM:
JUSTICE SAVITRI RATHO

ORDER
24.01.2022

Order No.

07. 1. This matter is taken up through hybrid mode.
2. Heard Mr.S.K.Dwibedi, learned counsel for the petitioner and Mr. P.C.Das, learned Addl. Standing Counsel for the State.
3. This is an application under Section 401 of Cr.P.C. challenging the order dated 07.06.2021 passed by the learned P.M.J.J.B., Nabarangpur in J.C. Case No.6 of 2021 arising out of Tentulikhunti P.S. Case No.12 of 2021 registered for commission of offence punishable under Section 302/34 of I.P.C.
4. The prosecution case in short is that one Linga jani lodged an F.I.R. on 26.01.2021 before the Tengulikhunti Police Station, inter alia, alleging that on the said date, the deceased, namely, Thabir Jani, who is the brother –in-law of the informant along with Mina Majhi went to Narasinghguda market to take tea and after some time Mina Majhi came and told that Jayanta Harijan, Rohit Harijan, Stiphen Hial and the present petitioner (CICL) assaulted Thabir Jani. After getting such information, the informant and his family members went to the spot and found

Thabir Jani lying on the road in unconscious state. Thereafter, Thabir Jani was shifted to D.H.H., Nabarangpur in ambulance where the doctor declared him as dead.

5. Mr. Dwibedi, learned counsel for the petitioner submitted that the petitioner was arrested on 27.1.2021 and subsequently sent to observation home where he is still continuing. The investigating officer submitted charge sheet on 25.05.2021 for commission of offence under Sections 302/34 of I.P.C. against the petitioner and other co-accused persons. He further submits that while refusing the prayer for bail, the learned P.M.J.J.B. Nabarangpur should have assigned reasons. The petitioner has been falsely implicated in this case only on the basis of the confessional statement made before the police and there is no overt act attributed against the petitioner. He further submits that two of the co-accused persons, namely, Jayanta Harijan and Stipan Hial @ Stiphan Hial standing on similar footing to that of the present petitioner have been released on bail by this Court in BLAPL No.1296 of 2021 and BLAPL No.6277 of 2021 respectively. In support of his submission, he has produced the copies of the bail orders. The same be kept on record. He further submitted that the social investigation report of the petitioner is favourable.

6. On the other hand, Mr. P.C.Das, learned Addl. Standing Counsel opposed the prayer for bail stating that after taking into consideration the materials available on record and the commission of offence, the learned courts below have rightly rejected the prayer for bail of the petitioner. Hence, no indulgence should be shown to the petitioner at this stage.

7. Perused the records as well as the case diary including the statement of the eye-witnesses, Tankadhara Takri and Renu Jani. She has stated about the four persons having liquor and the

four persons assaulting the deceased and that she came to know their names later. She has stated that these four accused are antisocial but the CICL has no criminal antecedent and the social investigation report of the petitioner is favourable and states that he has studied above Class-VIII and does labour work. Co-accused-Jayanta Harijan and Stipan Hial @ Stiphan Hial who have been released on bail in BLAPL No.1296 of 2021 and BLAPL No.6277 of 2021 stand on similar footing as the petitioner.

8. Having regard to the submissions made, nature of materials available against the CICL, the period spent by him in the observation home, the social investigation report, I am inclined to allow the prayer for bail.

9. Let the CICL represented by his father/natural guardian-Ranit Nag, be released on bail by the learned P.M.J.J.B., Nabarangpur in J.C.Case No.06 of 2021 corresponding to Tentulikhunti P.S. Case No.12 of 2021 on such terms and conditions as deemed just and proper including the following conditions:-

1. The father-natural guardian of CICL shall furnish an undertaking that after release:

(i) The CICL will not be allowed to come in contact with any criminals.

(ii) The CICL will not indulge in any criminal activity.

10. No observation in this order shall be construed as an expression on the merits of the case.

11. The CRLREV is accordingly disposed of.

12. In view of the restrictions due to resurgence of COVID-19 situation, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in

the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020, modified by Notice No.4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(Savitri Ratho)
Judge

Bichi

