

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No. 6824 of 2022**

***Santosh Jena***

....

***Petitioner***

Mr. A. Tripathy, Advocate

*-versus-*

***State of Orissa***

....

***Opposite Party***

Mr. A. Pradhan, ASC

Mr. B.K. Sahoo, Advocate

(Informant)

**CORAM: JUSTICE V. NARASINGH**

**ORDER**

**23.11.2022**

**Order No.**

**04.**

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the informant.
3. The petitioner is accused in connection with G.R. Case No.96 of 2022, pending in the Court of the learned J.M.F.C., Odagaon, arising out of Sarankul P.S. Case No.43 of 2022, for alleged commission of offences under Sections 302/34 of IPC.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Sessions Judge, Nayagarh, by order dated 21.06.2022 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that the petitioner is in custody since 08.04.2022 and since charge-sheet has

already been filed and keeping in view the nature of allegations, his further continuance in custody is unwarranted.

6. Learned counsel for the State as well as the informant opposes the prayer for bail relying on the dying declaration of the deceased stating inter alia that specific overt act of hitting by a stick is attributed to the petitioner. Hence, the petitioner ought not to be released.

7. Perused the dying declaration, which clearly states about the role of the mother-in-law of the present petitioner the co-accused Srimati Pala and it has been stated that the present petitioner has inflicted a blow with a stick.

8. On perusal of the post mortem report and the opinion of the doctor conducting the post mortem, it is seen that the death has been attributed to burn injuries and its complications thereon.

9. Considering the dying declaration along with the post mortem report and the role ascribed to the present petitioner and keeping in view the conduct of the present petitioner, who was released on interim bail and on expiry of the term, had surrendered, this Court directs the petitioner to be released on bail. Learned Court in seisin over the matter to fix the terms so as to ensure the presence of the petitioner on each date of trial.

10. Accordingly, the BLAPL stands disposed of.

**(V. NARASINGH)**  
**Judge**

*Ayesha*