

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6193 of 2021

Giridhari Singh @ Sing

....

Petitioner

Mr. Suryakanta Dwibedi, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. K.K. Nayak, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

09.03.2022

Order No.

05. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Betnoti P.S. Case No.106 of 2021, arising out of C.T. Case No.283 of 2021, pending in the court of learned J.M.F.C., Betnoti, for commission of alleged offences under Sections 302/201/34 of I.P.C.
3. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the Case Diary, statement of witness, Post-Mortem report of the deceased as well as 164 statement of the Informant.
4. The case of the prosecution, in a nutshell, is that one Girish Bhakta on 01.04.2021 lodged a written report before the IIC of Betnoti P.S. alleging inter alia therein that the accused persons had taken the Ladhasahi pond of their village on lease for pisci culture. On 31.03.2021 at about 1.00 p.m., while his son was catching fish from the said pond, both the accused persons were assaulted him by

means of stone and wooden sticks, resulting death of the deceased. Thereafter the accused persons buried the dead body in the said pond.

5. Learned counsel for the Petitioner submits that Petitioner is languishing in jail custody since the date of his arrest, i.e. 02.04.2021. It is submitted that police after investigation submitted charge-sheet. Further there is no eye witness to the occurrence and only on the basis of circumstantial evidence, he has been falsely implicated in the case. From the version of the prosecution witnesses, it cannot be arrived at a conclusion that Petitioner involved in the crime resulting death of the deceased person. In the event of his release on bail, he shall cooperate in the investigation and being a local person, there is absolutely no chance of evading the trial of the case.

6. Learned counsel for the State on the other hand basing on the 164 statement of the Informant as well as statement of other witnesses and the facts and circumstances of the case submitted that Petitioner (father) and his son are involved in the heinous crime. He further submits that Petitioner had taken the pond on lease basis from the local Panchayat for pisci culture purpose. The deceased was forcibly catching fish from the said pond and there was previous rivalry between the two families. In such view of the matter, learned counsel for the State prays that his bail application should be rejected.

7. Considering the aforesaid submissions, this Court finds that there are no eye witnesses to the occurrence and only on the basis of circumstantial evidence and leading to discovery, the prosecution

case revolves around these two evidences. This Court holds that these grounds are good grounds but at the time of trial of the case.

8. Having heard learned counsel for the parties, considering the nature and gravity of offences alleged and the period of detention of the Petitioner and the statement of the witnesses recorded under Section 164 Cr.P.C., this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local surety for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

- (i) He shall appear before the trial court on each and every date as fixed by the court;
- (ii) He shall appear before the local police on every Sunday at 10.00 A.M. to 1.00 P.M. and report to the I.O.
- (iii) He shall not tamper with the prosecution evidence;
- (iv) He shall not influence or threaten any prosecution evidence and cooperate in the investigation;
- (v) He shall provide the present address and mobile number to the local police station and inform the I.O. any change therein;
- (vi) He shall not leave the local jurisdiction without having special permission from the court; and
- (vii) Violation of any of the above conditions shall entail cancellation of the bail.

9. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

10. With the above direction, the BLAPL is accordingly allowed.

11. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge

U.K.Sahoo

