

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6701 of 2021

Damu Barik

.... ***Petitioner***
M/s.N.K.Panda, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.D.Nayak, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

14.09.2022

Order No.

- 08.
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 Mathili P.S. Case No.123 of 2020 corresponding to C.T. Case No.92 of 2021 arising out of G.R. Case No. 637 of 2020 pending in the Court of learned Sessions Judge, Malkangiri for commission of offence punishable U/Ss. 448/302 of I.P.C. on the allegation of committing murder of the child of the informant by trespassing into his house.
 3. Heard learned counsel for the petitioner as well as learned counsel for the State.
 4. In the course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner is inside jail custody since 11.09.2020 and in the meantime charge sheet has already been submitted in this case and therefore, there is hardly any apprehension of tampering of evidence by the petitioner. It is further submitted for the petitioner that there is no direct evidence available against the petitioner and none has seen the petitioner committing the murder of the deceased child and if the entire allegations are taken to be true on the face of it, the same would neither indicate the petitioner to be the perpetrator of the crime nor would it disclose any chain of circumstances unerringly pointing towards the guilt of the petitioner. Learned counsel under these submissions prays to enlarge the petitioner on bail.
 5. On contrary, learned counsel for the State, while opposing the bail

application of the petitioner, by placing the statement of one witness Madhu Khara, submits that the very conduct of the petitioner forthcoming from the statement of the witness itself goes a long way to indicate the charge of murder against the petitioner and the petitioner having prima facie found to have committed the murder of the child aged about two years and three months should not be enlarged on bail.

6. Gone through the allegations on record upon hearing the parties, there appears little doubt about homicidal death of a child as per the opinion of the doctor in the post mortem report, which itself indicates finding of deep lacerated wound on the left part of occipital area to the back of left pinna of ear with profuse bleeding along with other lacerated injuries on the person of the deceased child and further there is also allegations on record against the petitioner for the commission of murder of the child.

7. Considering the nature and gravity of allegations levelled against the petitioner coupled with facts narrated in the preceding paragraph and taking into consideration the other material allegations against the petitioner as stated by witness Madhu Khara and keeping in view the murder of a child aged about two years and three months and the number of injuries found on the person the deceased child as stated in the post mortem report, and the manner and circumstance of commission of crime and the nature of weapon i.e. axe allegedly used in the commission of crime, this Court does not feel it proper to enlarge the petitioner on bail. Accordingly, the prayer for bail of the petitioner stands rejected.

8. At this point, learned counsel for the petitioner submits for expeditious disposal of the case. In view of such submission, the learned trial Court is requested to dispose of the case as expeditiously as possible.

9. Accordingly, the BLAPL stands disposed of.

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

(G. Satapathy)
Judge