

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6721 of 2021

Bidyadhar @ Bidya Munda

....

Petitioner

Mr.Lambodar Achari, Advocate

-versus-

State of Odisha

....

Opp.Party

Mr.K.K.Nayak A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

04.03.2022

Order No.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with Baria P.S. Case No.06 of 2016, corresponding to G.R.Case No.28 of 2016, pending in the Court of the learned S.D.J.M., Champua for alleged commission of offences under Sections 302/34 of the Indian Penal Code.
3. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel for the State.
4. Perused the case diary, as well as F.I.R. and the statements of the witnesses.
5. Learned counsel for the Petitioner submits that the Petitioner is in custody since 24.01.2021 and investigation of the case has been completed and charge sheet has been filed. Learned counsel for the Petitioner further submits that one Magha @ Megha Nayak, who is a child witness and happens to be the only eye witness to the occurrence stated about the occurrence involving the present

Petitioner. Questioning the statements of all other witnesses, learned counsel for the Petitioner submits that there are many other witnesses to the occurrence, from whose statements it cannot be conclusively said that the Petitioner is the author of the crime. Further he submits that since the Petitioner belongs to the locality there is no chance of his absconding.

6. Learned Additional Standing Counsel on the other hand submits that there are two eye witnesses to the occurrence namely, Magha alias Megha and Sujata Munda, who have clearly stated that the Petitioner has assaulted the deceased by means of an axe. Therefore, learned counsel for the State opposes the bail application stating that there is enough materials on record to implicate the Petitioner in the present crime.

7. At this stage, learned counsel for the Petitioner seeks liberty to withdraw the bail application and move for bail after examination of the abovenamed two witnesses. Accordingly, bail application is dismissed as withdrawn with liberty to the Petitioner to move the trial court by filing fresh bail application after examination of Magha alias Megha and Sujata Munda. In the event such an application is filed, the same shall be considered in accordance with law.

8. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra)
Judge