

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7017 of 2021

Sibani Biswal

.... ***Petitioner***
Mr. H.N. Tripathy, 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.

04. 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 Banarpal P.S. Case No.205 of 2021, corresponding to G.R. Case No.657 of 2021, pending in the file of learned J.M.F.C., Banarpal, Angul, for commission of alleged offences under Sections 302/34 of I.P.C., which has been committed to the District & Sessions Judge, Angul.
3. Heard learned counsel for both the parties. Perused the Case Diary as well as statement of the witnesses.
4. The case of the prosecution, in a nutshell, is that on 29.06.2021, one Smt. Pramila Rout and two other sisters lodged a written report that she got a telephonic message that her sister Urmila Biswal has died. It is mentioned in the FIR on 28.06.2021 that their brother, sister-in-law picked up quarrel with deceased sister stating that they would not give any share from parental property and also threatened to kill her. The

informant presumed that her brother and sister-in-law (Bhauja) might have murder her.

5. Learned counsel for the Petitioner submits Petitioner is languishing in jail custody since the date of his arrest, i.e. 04.07.2021. As it appears, Informant is the niece of the accused Petitioner. On perusal of the rejection order dated 02.08.2021, which is prior to filing of the charge-sheet but, however, in the meantime charge-sheet has been filed, it appears that the bail application of the present Petitioner has been rejected only on the ground that the investigation of the case is substantially progressed on the date of rejection of the bail order. It also appears from the said order that there are no evidence against the present Petitioner. Further learned counsel below has not accepted the evidence of the petitioner during examination. This Court finds that there is nothing whispered in the matter in the writ petition.

6. Considering the submission made and in such view of the above, this Court feels it proper that the rejection order dated 02.08.2021 passed by the learned Addl. District & Sessions Judge-cum-Special Judge (Vigilance), Angul is set aside and the matter is remanded back to the court below to consider the bail application of the Petitioner afresh taking into consideration all the materials available on record after filing of the charge-sheet.

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

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

(A.K. Mohapatra)
Judge