

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8176 of 2022

Titu @ Sudarsan Naik Petitioner

Mr. A.N. Samantaray, Advocate

-versus-

State of Odisha Opp.Party

*Mrs. Susamarani Sahoo
Addl. Standing Counsel*

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
15.12.2022**

Order No.

06. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 439 of Cr.P.C. for grant of bail to the petitioner in connection with Dharakote P.S. Case No.183 of 2020 corresponding to S.T. Case No. 33 of 2021 pending in the Court of learned Addl. Sessions Judge, Aska for alleged commission of offence under section 302 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of learned Addl. Sessions Judge, Aska, which

was rejected on 06.04.2022.

Learned counsel for the petitioner submitted that the petitioner is in judicial custody since 01.12.2020 and he has been charge sheeted under section 302 of the Indian Penal Code and his earlier bail application in BLAPL No.3001 of 2021 was rejected as per order dated 27.09.2021 taking into account the statements of the eye witnesses as well as the post mortem report findings and liberty was granted to the petitioner to renew his prayer for bail after examination of the eye witnesses in the learned trial Court. Learned counsel contended that in the meantime, out of nineteen charge sheet witnesses, nine witnesses have already been examined in the learned trial Court including some of the eye witnesses and the evidence on record indicates that the petitioner is related to the deceased Gajendra Nayak and there used to be quarrel between them and on the date of occurrence, the deceased was quarreling with his wife Sumati Nayak (P.W.6) under the influence of liquor and the petitioner had also consumed liquor at that time and while the quarrel between the deceased and his wife was going on, the petitioner was trying to pacify the quarrel and thereafter, the occurrence took place. Learned counsel further drew the attention of this Court to the evidence of two eye witnesses namely, Subhankar Nayak and Sashi Nayak, who have been examined as P.W. 8

and P.W. 9 respectively and they have stated that no weapon was used in the assault of the deceased and in view of the period of detention of the petitioner in judicial custody and the progress of trial, the bail application of the petitioner may be favourably reconsidered. He files the certified copies of the depositions of P.Ws.8 and 9 in Court today after serving the copies of the same on the learned counsel for the State. The deposition copies of P.Ws.8 and 9 are taken on record.

Learned counsel for the State after going through the case records fairly submitted there is no criminal antecedent against the petitioner.

Considering the submissions of the learned counsel for the respective parties, the background of the case, the surrounding circumstances under which the incident took place, absence of any criminal antecedent against the petitioner and further taking into account the period of detention of the petitioner in judicial custody, I am inclined to reconsider the prayer for bail and direct release the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000/- (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with such terms and conditions as the learned Court may deem just and

proper including the conditions that the petitioner shall not indulge in any criminal activities, shall appear before the learned trial Court when the case would be posted for trial and shall not try to tamper with the prosecution witnesses. Violation of any of the conditions shall entail cancellation of bail.

BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

PKSahoo

