

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8373 of 2022

Butu @ Batakrushna Malik

Petitioner

Mr. B.K. Bal , Advocate

-versus-

State of Odisha

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

20.12.2022

Order No.

02.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in connection with G.R. Case No.426 of 2022, pending in the Court of the learned J.M.F.C., Salipur arising out of Nischintakoili P.S. Case No.82 of 2022 for commission of alleged offences under Sections 302 of IPC.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Salipur, by order dated 23.08.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted that petitioner is in custody since 28.05.2022 and as charge sheet is filed on 21.07.2022. it is submitted that no offence under Section 302 of IPC is made out placing reliance on the eye witness account of one Kalia, who has been cited as charge sheet witnesses No.1.
5. Such submission is opposed by the learned Counsel for the State and submits that since deceased was admittedly assaulted

by the petitioner he cannot be absolved of his criminal intent and at this stage of bail this aspect cannot be gone into.

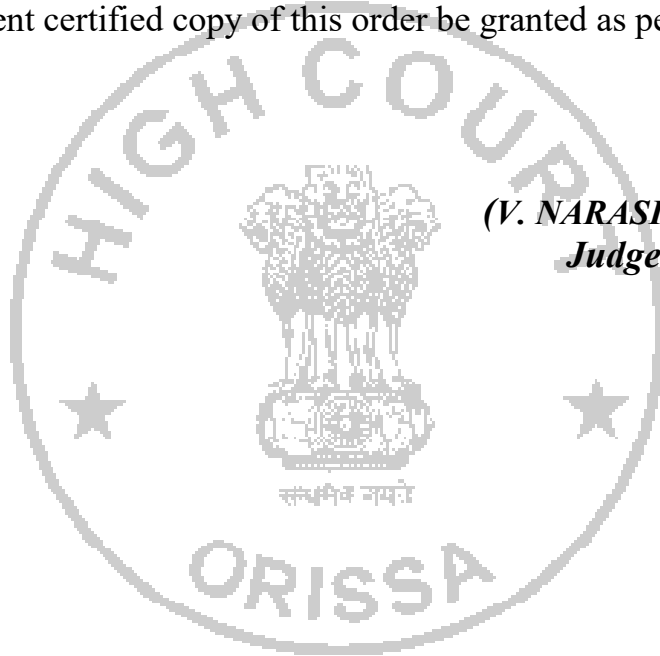
6. This Court perused the statement of the witness Kalia stated above.

7. On perusal of the same, it comes to the fore that the incident happened on a spur of the moment in a fit of anger without any premeditation. Hence, this Court directs the petitioner to be released on bail on such terms to be fixed by the learned Court in seisin.

8. Accordingly, the BLAPL stands disposed of.

9. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge



Santoshi