

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7441 of 2021

Laxmi Naik

.... ***Petitioner***
Mr.B.K.Ragada, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr .M.K.Mohanty,A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

17.02.2022

Order No.

4. This matter is taken up through Hybrid Arrangement (virtual/Physical Mode).
2. Heard Mr.Ragada, learned counsel for the Petitioner and learned Additional Standing Counsel for the State.
3. This is an application under Section 439 of the Code of Criminal Procedure filed by the Petitioner for bail in connection with Barkot P.S.Case No.204 of 2021, corresponding to C.T.Case No.394 of 2021, pending in the Court of the learned S.D.J.M., Deogarh. for alleged commission of offence under Section 302/34 of the Indian Penal Code.
4. Perused the Case Diary as well as the statements of the witnesses recorded under section 161 Cr.P.C.
5. Prosecution story as revealed from the F.I.R. is that on 09.07.2021 the complainant Pramod Kumar Pradhan lodged a written report before the Barkote Police Station alleging therein that on that day his son Bapindra Pradhan, the deceased had been to

village Ganathpur side by his motorcycle, but he did not return till 4 P.M. to his house. It is further alleged in the F.I.R. that the informant and others although searched for the deceased and found his motorcycle was standing in front of the house of one Mahendra Naik and further they found the dead body of the deceased was lying in the backyard of the house of Mahendra Naiak and it was seen by the informant that blood was oozing out from his nose. They also found injury on the body of the deceased. Suspecting foul play, the informant lodged the F.I.R. at the Police Station.

6. Learned counsel for the Petitioner submits that there is no eye witness to the occurrence although charge sheet has been filed in the meantime. The entire case is based on circumstantial evidence. The witnesses who have been examined so far, have stated that the deceased had gone to the house of the Petitioner and behaved with the family members in an indecent manner, as a result of which the family members of the Petitioner asked the deceased to refrain from such activities. However, none of the witnesses has seen the occurrence. He further submits that there is no material against the present Petitioner and she is in jail custody since 11.07.2021. Further he submits that the Petitioner is a lady, therefore, there is no chance of her absconding or tampering with the evidence of the prosecution in the event she is released on bail.

7. Learned counsel for the State on the other hand opposes the prayer for bail stating that the circumstances indicate that the family members of the Petitioner jointly assaulted and killed the deceased and thereafter they have tried to conceal the body of the deceased in the backyard of the house. Therefore, the circumstances clearly indicate that the members of the petitioner's family are guilty for commission of the crime as alleged in the F.I.R. and therefore, he

prays for rejection of the bail application.

8. After going through the case record as well as the statements of the witnesses, this Court finds that the allegations made in the F.I.R. are omnibus in nature and there is no specific allegations against anybody assaulting the deceased. Moreover, none of the witnesses examined by the Police have seen the occurrence. In such view of the matter, the case of the prosecution is based on circumstantial evidence, which is a matter of trial.

9. Considering the aforesaid facts and circumstances and the fact that the Petitioner is a lady and is in custody since 11.07.2021, I am inclined to release the Petitioner on bail in the above case, on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following conditions:

- i) shall not tamper with the evidence and threaten or influence the witnesses;
- ii) shall appear before the trial court on each and every date of trial of the case till conclusion of the trial.

8. Further, it is open to the court in seisin over the matter to impose any additional condition (s), if situation so warrants.

9. The BLAPL is accordingly disposed of.

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