

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8455 of 2022

Bhaskar Soura

....

Petitioner

Mr. T.K. Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
20.12.2022

Order No.

01.

1. Heard learned counsel for the Petitioner and learned counsel for the State.
2. The Petitioner is an accused in C.T. Case No.65 of 2022, pending before the learned Addl. Sessions Judge, Jeypore, arising out of Kotpad P.S. Case No.01 of 2022, for commission of alleged offences under Section 304 IPC.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Addl. Sessions Judge-cum-Special Judge, Jeypore by order dated 10.08.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted by the learned counsel that the Petitioner is in custody since 03.01.2022 and charge sheet has been filed on 31.03.2022. It is stated that though FIR was registered under Section 302 IPC, but charge sheet has been filed under Section 304 IPC.

5. Referring to the post-mortem report, learned counsel for the Petitioner submits that the cause of death has been stated as Hemorrhagic shock secondary to injury.

6. Learned counsel for the Petitioner places the statement of Dusila Soura who has been cited as charge sheeted witness no.1 and charge sheeted witness no.4-Rupa Saura submits that consequent to the altercation, the present Petitioner gave a blow on the leg of the deceased but he unfortunately succumbed to the said injury in the hospital and also stated that the death was due to shock on account of the said injury. If the entire allegations are accepted in its face value, it cannot be said that the Petitioner intended to cause death of the deceased and keeping in view the social status as he is not in a position to influence the witnesses, his further incarceration is punitive.

7. Learned counsel for the State opposes the prayer for bail.

8. Taking into account the background in which the offence was committed, injury and the post-mortem report, this Court directs the Petitioner to be released on bail on such terms to be fixed by the learned Court in seisin over the matter.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

PKS