

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8498 of 2022

Ghanashyam Majhi

....

Petitioner

Mr. J. Sahoo, 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 connection with G.R. Case No.101 of 2022, pending in the Court of the learned N.G.N.-cum-J.M.F.C., Raigarh, arising out of Raigarh P.S. Case No.72 of 2022, for alleged commission of offence under Section 302 IPC.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Umerkote, by order dated 22.07.2022 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 11.04.2022 and charge-sheet has been filed on 19.07.2022. Taking note of the nature of allegation, no case under

Section 302 IPC is made out against the Petitioner. Hence, he may be released on bail.

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

6. The genesis of the offence is altercation which took place on 07.04.2022 on which date the present Petitioner accused of assaulting the deceased with a brick repeatedly for which he succumbed to his injuries in the hospital on 09.04.2022.

7. Learned counsel for the Petitioner as well as the State place the statement of Sasanka Pradhan, Kanaka Pradhan and Tulabati Majhi who have been cited as charge sheeted witnesses. All the witnesses are consistent that the deceased was dealt a blow with a brick.

8. Referring to the post-mortem report, learned counsel for the State submits that taking into account the number of injuries as found on the deceased it cannot be said that the present Petitioner is not accused of offence under Section 302 IPC. Since the manner in which the assault has been made the intention is clearly established, hence the Petitioner ought not to be released on bail.

9. This Court perused the post-mortem report. The injury which is found to be fatal is on account of the blow on the head by the present Petitioner.

10. Considering the statement of the witnesses narrating the background in which the offence was committed, this Court is persuaded to direct the release of the Petitioner on such terms to be fixed by the Court in seisin over the matter.

11. Accordingly, the BLAPL stands disposed of.
12. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)
Judge

PKS

