

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8645 of 2022

Siba Paraja

....

Petitioner

Mr. J.K. Khuntia, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
22.12.2022

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 C.T. Case No.29 of 2021, pending in the Court of learned Additional Sessions Judge-cum-Special Judge, Koraput, arising out of Koraput Sadar P.S. Case No.119 of 2020 corresponding to G.R. Case No.933 of 2020, for alleged commission of 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 1st Additional Sessions Judge, Khurda Additional Sessions Judge-cum-Special Judge, Koraput, by order dated 01.08.2022 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 17.10.2020 and charge-sheet has been filed on

01.12.2020, hence further continuance of the petitioner in custody is unwarranted, since trial has not commenced.

5. Learned counsel for the State places the statement of one Jaimati Paraja who is an eye witness and cited as charge-sheeted witness No.2 and daughter-in-law of the petitioner and the deceased.

6. It is the case of the petitioner that the incident happened out of quarrel without any premeditation and out of anger, he dealt the blows which accidentally fell on the head of his wife and as such there was no intention to kill the deceased and therefore even if the prosecution case is accepted at its face value, no case under Section 302 of IPC is made out.

7. Learned counsel for the State opposes the prayer relying on the post mortem report.

8. Considering the manner in which the assault has taken place and that the deceased was the wife of the petitioner and the statement of the informant, son of the petitioner charge-sheeted witness Nos.1 & charge-sheeted witness No.2 as referred to hereinabove, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.

9. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha