

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7666 of 2021

Sushanta @ Susanta Hati

Petitioner
....
Mr. H.S.Mishra, *Advocate*

-versus-

State of Odisha

Opp. Party
....
Mr. K.K.Nayak, *A.S.C.*

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

10.01.2022

Order No.

03.

1. This matter is taken up through Video Conferencing mode.
2. Heard Mr.H.S.Mishra, learned counsel for the Petitioner and Mr.K.K.Nayak, learned Additional Standing Counsel.
3. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Balangir Sadar P.S.Case No.137 of 2021, corresponding to G.R.Case No.632 of 2021, pending in the Court of the learned S.D.J.M., Balangir.
4. The Prosecution case, in brief, is that on 3rd May, 2021 at about 9.37 P.M., the complainant Nitya Hati lodged a written report before the I.I.C., Sadar P.S., Balangir alleging that on the same day at about 9.30 A.M. the accused persons namely, Saranga Hati and the present petitioner assaulted him by means of a crowbar on his belly. After which he sustained bleeding injury on his belly and both were shifted to BBMCH, Balangir for treatment. The brother of the complainant, Madhab succumbed to the injuries while undergoing treatment on 3rd May, 2021.
5. Mr.Mishra, learned counsel for the Petitioner submits that the

incident took place at a spur of moment and the present Petitioner was only present and caught hold of the deceased. He further submitted that the principal accused assaulted with a crowbar and dealt the blows on the belly of the deceased. Mr.Mishra further submits that the medical evidence does not support the evidence collected in this case inasmuch as the assault as narrated by the witnesses was on the belly of the deceased whereas the Post Mortem report reveals that the cause of death was due to injury on the head. The principal accused has been apprehended by the Police and he is in judicial custody. Charge sheet has been filed in this case in the meantime.

6. Mr.K.K.Nayak, learned Additional Standing Counsel for the State-Opposite Party opposes the bail and submits that the present Petitioner was present at the spot and he caught hold of the deceased whereafter the main accused pierced the belly of the deceased by means of a crowbar. As such the involvement of the present petitioner in the alleged occurrence is clearly established.

7. Having heard learned counsel for the parties this Court is 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 solvent surety for the like amount to the satisfaction of the learned Court in seisin over the matter subject to the condition that the petitioner shall cooperate with the trial and shall not influence or terrorize the witnesses while on bail. Further, it is open to the Court in seisin over the matter to impose any additional condition(s) if situation so warrants.

8. The BLAPL stands disposed of.

3. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out

of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Office Order dated 7th January, 2022.

RKS

(A.K. Mohapatra)
Judge

