

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7673 of 2021

Dula @ Joda Oram

....

Petitioner

-versus-

State of Odisha

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER

24.06.2022

Order No.

04.

1. This matter is taken up through Hybrid mode.
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The Petitioner being in custody in S.T Case No.3 of 2019 arising out of K. Bolang P.S. Case No.54 of 2018 pending in the court of learned Addl. Sessions Judge, Bonai, has filed this petition for his release on bail. The offence alleged against him is punishable under Section 302 IPC.
4. It appears that the Petitioner earlier approached this Court in BLAPL No.6580 of 2019, which was rejected as withdrawn.
5. Learned counsel for the Petitioner submits that the trial of the aforesaid case has not yet concluded and the Petitioner is in custody near about four years. Therefore, the Petitioner be released on bail, especially when two months on the alleged

assault, the deceased died that too after discharge from the hospital.

6. However, learned counsel for the State submits that the eye witnesses have stated that the Petitioner assaulted the deceased with an axe for which he sustained grievous injuries. Though he died after two months of the alleged occurrence still the same fully makes out a case under Section 302 IPC. The offence alleged is heinous and serious in nature and prescribes capital punishment on conviction. Therefore, the Petitioner should not be released on bail.

7. It appears from the materials available on record that the deceased being armed with an axe came to the spot and dealt blow on the head of the deceased for which he sustained grievous injuries. No doubt, the deceased died after two months of the alleged occurrence that too discharged from the hospital. Out of 26 charge sheeted witnesses, 15 witnesses have been examined and remaining witnesses are yet to be examined. The trial could not be proceeded due to pandemic Covid-19. Therefore, the delay could not be attributable to the prosecution only.

8. Considering the said facts and the submissions made, especially the nature and gravity of the accusation, incriminating materials collected during the investigation indicating his indictment in an offence under Section 302 IPC, circumstances in which the offence stated to have been committed by the Petitioner, so also the punishment provided on conviction being capital one, notwithstanding the custody of the Petitioner near about four

years, this Court is not inclined to release the Petitioner on bail more so when possibility of the Petitioner's release having an adverse impact on a free and fair trial, so also his absconding is not ruled out.

9. Therefore, the prayer for release of the Petitioner on bail stands rejected.

10. Accordingly, this BLAPL stands disposed of being dismissed.

11. However, this Court while dismissing the prayer for bail of the Petitioner hopes and trusts that the trial court shall conclude the trial of the aforesaid case within six months hence.

(S. Pujahari)
Judge

PKS

