

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7781 of 2021

Govinda Senapati

.... ***Petitioner***
Mr. Debasis Sarangi, Advocate

-versus-

State of Odisha

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

17.03.2022

Order No.

05.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard Mr. Debasis Sarangi, learned counsel for the Petitioner as well as Mr. K.K. Nayak, learned Additional Standing Counsel for the State.
3. This is an application under Section 439 of the Criminal Procedure Code filed by the Petitioner to release him on regular bail in connection with G.R. Case No. 29 of 2021 pending in the Court of the learned J.M.F.C., Kodala corresponding to Kabisuryanagar P.S. Case No. 29 of 2021 for commission of the alleged offence under Section 302/34 of the Indian Penal Code. Now the case has been committed to the Court of Session.
4. Perused the Case Diary, F.I.R., statement of the witnesses recorded by the Police during investigation as well as the Post Mortem report.
5. It is submitted by the learned counsel for the Petitioner that the

Petitioner is in custody since 04.03.2021 and after completion of investigation charge sheet has been submitted against the Petitioner. Learned counsel for the Petitioner further submits that the F.I.R. has been lodged against unknown person. The entire prosecution case is based on circumstantial evidence and there is no eye witness to the occurrence. He further submits that the allegation in the F.I.R. is that the deceased was assaulted by means of a sword, which fact is not supported by P.M. report, where the Doctor has given his opinion that the death of the deceased was caused by means of hard and blunt weapon. He further submits that wooden plank recovered by the Police does not contain any blood stain. It is also submitted by him that since the Petitioner is the permanent resident of the locality, there is no chance of absconding or fleeing from the hands of justice. Therefore, learned counsel for the Petitioner prays to release the Petitioner on bail.

6. Learned counsel appearing for the State on the other hand submits that the nature of allegation is serious in nature. He further submits that although there is no eye witness to the occurrence, however, considering the statements of the witnesses as well as the surrounding circumstances a case has been well made out against the Petitioner. Therefore, the Petitioner should not be enlarged on bail at this juncture.

7. Considering the fact and circumstances of the case as well as materials available on record, this Court is of the prima facie opinion that the entire prosecution case is based on circumstantial evidence and in fact there is no eye witness to the occurrence. It is also seen that the F.I.R. has been lodged by the informant against unknown persons.

8. Having regard to the submissions made and upon considering the surrounding circumstances and materials available on record this Court is inclined to release the Petitioner on bail subject to stringent conditions. Let the Petitioner be released on bail subject to furnishing

bail bond of Rs.50,000/- (Rupees Fifty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to the following terms and conditions :

- i) he shall not indulge in similar nature of offence.
- ii) shall appear before the trial court on each and every date and shall cooperate for early conclusion of trial.
- iii) shall not tamper with the prosecution evidence and shall not make any attempt to influence or threaten the witnesses.
- iv) shall provide his address as well as his phone number to the concerned Police Station and keep the same updated in the event the same is changed in future.
- v) shall appear before the concerned Police Station once in a week preferably on Sunday between 10 to 1 P.M. till conclusion of trial initially for three months and once in a fortnight preferably on Sunday between 10 A.M. to 1 P.M. till conclusion of the trial.
- vi) Violation of any of the terms and conditions shall entail cancellation of bail.

9. With the aforesaid observation the BLAPL stands disposed of.

10. Urgent certified copy of this order be granted on proper application.

RKS

(A.K. Mohapatra)
Judge