

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7859 of 2021

Sk.Masiruddin

.... ***Petitioner***
Mr.P.C.Jena, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

19.05.2022

Order No.

06.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as the 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 Bhograi P.S. Case No.169 of 2021 corresponding to C.T. No.547 of 2021 pending in the Court of the learned J.M.F.C., Jaleswar for commission of an alleged offence under Sections 341,323,294, 307.506/34 of the Indian Penal Code.
4. It is submitted by the learned counsel for the Petitioner that the Petitioner is languishing in jail custody since 11.07.2021 and after completion of investigation, the Investigating Agency submitted charge sheet in this case. It is also submitted by the learned counsel for the Petitioner that due to sudden grave provocation the family members got enraged and started assaulting the victim. He further submits that the fatal blow was given by the sons namely, Sk.Mahin and Sk.Amin. It

is further submitted by the learned counsel for the Petitioner that initially the case was registered under section 307 of the Indian Penal Code, however, injured victim succumbed to the injuries while he was under treatment. He further emphasizes that the intention was never to kill the victim. It occurred due to sudden grave provocation by the victim.

6. Learned counsel for the State on the other hand opposes the prayer for bail of the Petitioner and submits that the nature of allegations in the present facts and circumstances are serious in nature. He further submits that the allegations against the Petitioner are omnibus in nature. Therefore, all the accused persons liable equally for commission of the crime.

7. Having heard learned counsel for the parties and taking into consideration the surrounding circumstances ascribed to the Petitioner, and keeping in view the period of custodial detention and the fact that fatal assault was by the sons of the present petitioner Sk.Mahin and Sk Amin, this Court is inclined to grant bail to the Petitioner and it is directed that let the Petitioner be released on bail in the aforesaid case on furnishing a 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 cooperate with the trial of the case and shall appear in trial court on each and every date to which the case is posted.
- ii) shall not indulge in any offence of similar nature
- iii) shall not tamper with the prosecution evidence while on bail.
- iv) shall not influence or threaten any prosecution witnesses while on bail.

- v) Violation of any of the terms and conditions shall entail cancellation of bail.
8. The trial court may also impose any other condition(s) as deem fit and proper.
9. The Bail Application is accordingly disposed of.
10. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra)
Judge

