

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8951 of 2022

Rabindra Mukhi

....

Petitioner

Mr. G. Siddique, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
18.11.2022

Order No.

03.

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 is an accused in connection with C.T. Case No.36 of 2022, pending in the Court of the learned Sessions Judge, Mayurbhanj, Baripada, arising out of Rasgovindpur P.S. Case No.36 of 2022, for alleged commission of offences under Sections 304/34 of IPC.
4. Being aggrieved by the rejection of her application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Mayurbhanj, Baripada, by order dated 09.08.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the petitioner that the petitioner is in custody since 15.02.2022 and since charge-sheet has been filed on 26.07.2022 inter alia under Section 304/34 of IPC though the FIR was registered under Section 302/34 of IPC, further continuance of the petitioner in custody is unwarranted.

6. Relying on the statements of Tulasi Mukhi, who is the mother of the petitioner and the deceased and the wife of the deceased Minati Mukhi and the post mortem report, which has stated that the cause of death is suggestive of hemorrhage, which is out of natural disease process, it is submitted that further continuance of the petitioner in custody is punitive.

7. It is urged with vehemence that even if the entire allegation of prosecution is accepted at its face value, it can be seen that without any premeditation, out of fit of anger, the unfortunate incident happened.

8. Learned counsel for the State opposes the prayer for bail inter alia relying on the statement of complainant Chumki Mukhi, who is the daughter of the deceased.

9. On a conspectus materials on record, taking into account the statements of eyewitness of the mother of the petitioner and the deceased and the wife of the deceased as noted above, coupled with the post mortem report regarding cause of death and that the case has been charge-sheeted under Section 304/34 IPC, this Court directs the petitioner to be released on bail on such terms to be fixed by the Court in seisin over the matter.

10. Accordingly, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Ayesha