

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9761 of 2022

Shankar Pradhan

....

Petitioner

Mr. B.P. Pradhan, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M. Mishra, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

12.12.2022

Order No.

04.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. The petitioner is an accused in G.R. Case No.625 of 2022, pending in the file of learned J.M.F.C., Khallikote, arising out of Khallikote P.S. Case No.268 of 2022, for commission of alleged offences under Sections 302 of the IPC and is in custody since 18.05.2022.
3. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Khallikote by order dated 20.09.2022 in the aforementioned case, the present BLAPL has been filed.
4. It is submitted that the occurrence took place on 01.05.2022 in as much as the petitioner gave a slap to the deceased Krushna Pradhan who fell down and in the process hit a stone and about two weeks thereafter the said Krushna Pradhan was admitted in the hospital and unfortunately died on 16.05.2022. After his

death, the FIR in question was lodged on 17.05.2022 and he is in custody since 18.05.2022 and it is stated that in the meanwhile charge sheet has been filed on 16.09.2022, which is on record.

5. Learned counsel for the petitioner has placed the statement of two witnesses i.e, Bairagi Behera and Suma Behera, the wife of said Bairagi Behera who have been cited as charge sheet witness Nos.11 & 12 and submits that the said statements fortify the accusation that the petitioner inter alia gave a slap to the deceased.

6. Hence, it is stated that even if the entire allegation of the prosecution is accepted at its face value, no case under Section 302 of IPC is made out. Therefore, he may be released on bail.

7. Learned counsel for the State relies on the statement of the informant Buchiani Pradhan cited as charge sheet witnesses No.1 and submits that the petitioner had motive to commit the offence and hence, he ought not be released on bail merely because charge sheet is filed.

8. This Court perused the statement of the wife of the deceased Chanchala Pradhan, and daughter Rajeswari Pradhan aged about 14 years, who stated that the petitioner had given a slap to the deceased.

At this stage it is apt to refer to the post mortem report which is on record which indicates that the death is due to head injuries which were held to be fatal.

9. Considering the manner in which the injuries were caused, the time that elapsed between the date of occurrence and the admission of the petitioner in the hospital and keeping in view the nature of allegations and as charge sheet has already been filed, this Court finds further continuance of the petitioner in custody not

warranted. Accordingly, he is directed to be released on bail. Terms to be fixed by the learned Court in seisin.

10. Thus, the BLAPL stands disposed of.

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

(V. NARASINGH)
Judge

Santoshi

