

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8840 of 2021

Iswar Kalta

.... ***Petitioner***
M/s. A.P.Bose, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s. D.Nayak, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

29.08.2022

Order No.

- 06.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Manamunda P.S. Case No.60 of 2021 corresponding to C.T. Case No.111 of 2021 pending in the Court of learned J.M.F.C., Kantamal for commission of offence punishable U/S. 302 of the I.P.C.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that even if the entire allegations are taken to be true, it is not a case under Section 302 of the I.P.C. rather it is a case under Section 304 of the I.P.C. as no motive has been attributed against the petitioner. He further submits that the petitioner in inside jail custody since 22.5.2021 and charge sheet has already been submitted and no criminal antecedent has been reported against the petitioner and the petitioner having falsely implicated in this case, may kindly be enlarged on bail.
 4. On contrary, learned counsel for the State while opposing the bail application of the petitioner admits that no criminal antecedent is reported against the petitioner so also no motive has been attributed against the petitioner. Learned counsel for the State, however, refuses to concede the submission of the learned counsel for the petitioner that it is not a case under Section 302 of the I.P.C. and he submits that the manner of assault

and the weapon of offence is taken up together, the case would squarely fall under Section 302 of the I.P.C. and the petitioner having murdered his own brother should not be enlarged on bail.

5. Considering the nature and gravity of accusations and keeping in mind the cherished object of personal liberty and taking into consideration the period of detention of the petitioner since 22.5.2021 and the supporting materials and the manner and circumstances of alleged assault as well as no materials being collected against the petitioner to indicate that the petitioner would abscond or tamper with the evidence and no criminal antecedent being reported against the petitioner, this Court feels it proper to enlarge the petitioner on bail.

6. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on furnishing bail bonds of Rs.25,000/- with two solvent sureties each for the like amount to the satisfaction of the learned trial Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall not leave the jurisdiction of the learned trial Court without prior permission and the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with by the learned trial Court.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge