

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9252 of 2021

Sudhir Kumar Behera

.... ***Petitioner***
M/s.U.C.Jena, Advocate

-versus-

State of Orissa

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

CORAM:

JUSTICE G. SATAPATHY

ORDER

14.09.2022

Order No.

- 08.
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 Bhadrak Rural P.S. Case No.137 of 2021 corresponding to G.R.Case No.812 of 2021 pending in the Court of learned S.D.J.M., Bhadrak for commission of offence punishable U/Ss. 147/148/307/302/379/427/506/149 of I.P.C. on the allegation that on 17.03.2021 at about 7 A.M. in the morning, the petitioner and others being armed with deadly weapons like sword and lathi assaulted the deceased Sanjit Behera causing number of injuries resulting his death.
 3. Heard learned counsel for the petitioner as well as learned counsel for the State.
 4. In the course of hearing of the bail application, learned counsel for the petitioner forcefully submits that the petitioner and the deceased had been to attend the call of nature in the morning and there was an altercation between them which led to exchange of fist and kick blows but petitioner had never assaulted the deceased with any weapon of offence nor any group of persons along with petitioner conjointly assaulted the deceased by using any weapon of offence. It is also submitted for the petitioner that there is no mens rea or motive on the part of the petitioner to kill the deceased and the petitioner has been falsely implicated in this

case due to prior enmity. It is further submitted that the petitioner being in custody since 18.03.2021, may kindly be enlarged on bail.

5. On contrary, learned counsel for the State, while opposing the bail application of the petitioner, by placing the dying declaration of the deceased submits that the petitioner and others had killed the deceased by assaulting him with deadly weapons and the petitioner therefore should not be enlarged on bail.

6. Considering the nature and gravity of allegations levelled against the petitioner and keeping in view the alleged dying declaration of the deceased and taking into consideration the manner and circumstance of the commission of crime and the number of injuries sustained by the deceased and further the weapon of offences i.e. sword and lathi allegedly used in this case, this Court does not feel it proper to enlarge the petitioner on bail. Accordingly, the prayer for bail of the petitioner stands rejected.

7. Accordingly, the BLAPL stands disposed of.

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

