

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9401 of 2021

Sambhu Munda

.... ***Petitioner***
Mr. R. Pradhan, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
Mr. P.K. Pattnaik, AGA

CORAM:
JUSTICE G. SATAPATHY

ORDER
16.11.2022

Order No.

- 05.
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 G.R. Case No.225 of 2021 arising out of Champua P.S. Case No.95 of 2021 pending in the file of learned S.D.J.M., Champua for commission of offences punishable under Sections 294/323/354/302 of IPC, on the allegation of committing murder of the deceased as well as threatening, assaulting and outraging the modesty of the wife of the deceased.
 3. In the course of hearing of the bail application, Mr. R. Pradhan, learned counsel for the petitioner submits that the petitioner is inside jail custody since 25.07.2021 and in the meanwhile, after conclusion of investigation, charge-sheet has already been placed in this case. It is further submitted by him that the petitioner and deceased are two cousins and they were having landed dispute for which there was an altercation between the petitioner and deceased,

but the petitioner had never assaulted the deceased. It is further submitted by him that even if the materials on record are taken at their face value, it would hardly disclose commission of offence U/S.302 of IPC against the petitioner and at best a case U/S.304 Part-II would be attracted in view of the facts that there was an exchange of hot words between the petitioner and deceased which led to a brawl in which the petitioner took out a bamboo stick and assaulted by giving one blow on the head of the deceased but the petitioner was not having any *mens rea* to kill the deceased. Learned counsel for the petitioner under aforesaid submission prays to enlarge the petitioner on bail.

4. On contrary, learned counsel for the State opposes the bail application of the petitioner vehemently and, he, inter alia submits that since the deceased sustained number of injuries by the assault of the petitioner, it cannot be said that no case U/S.302 of IPC is made out against the petitioner. It is accordingly prayed by learned counsel for the State to reject the bail application of the petitioner.

5. Considering the rival submissions made, nature and character of the accusations against the petitioner, the manner in which the deceased was done to death, the pre trial detention of the petitioner since 25.07.2021 and the fact that the bamboo stick was used in the execution of the crime and regard being had to the allegation against the petitioner and keeping in view the fact that there is allegation of fight between the petitioner and deceased out of some land dispute and taking into consideration other circumstances in entirety, this Court considers the bail application of the petitioner leniently.

6. Hence, the prayer for the bail of the petitioner stands allowed

and the petitioner is allowed to go on bail on furnishing bail bond of Rs.50,000/- with one solvent surety for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioner shall attend the trial Court on each date of posting without fail unless his attendance is dispensed with and that he shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

7. Accordingly, the BLAPL stands disposed of.
8. Issue urgent certified copy of the order as per Rules.

Subhasmita

