

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10014 of 2021

Sarbeswar Nanda

***.... Petitioner
Mr. S.N. Mishra, Adv.***

Versus

State of Odisha

***.... Opposite Party
Mr. C.S. Mishra, A.G.A.***

**CORAM:
JUSTICE SAVITRI RATHO**

**ORDER
13.07.2022**

Order No.

04. 1. Heard Mr. S.N. Mishra, learned counsel for the petitioner and Mr. C.S. Mishra, learned Addl. Government Advocate for the State.
2. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner-Sarbeswar Nanda in connection with Tigiria P.S. Case No.129 of 2020 corresponding to C.T. Case No.128 of 2020 pending in the Court of learned Addl. District & Sessions Judge, Athagarh where charge sheet has been submitted for commission of offences punishable under Section 341/294/325/506/307/336/302/34 of the I.P.C. The case is now pending before the learned Addl. District and Sessions Judge, Athagarh in S.T. Case No. 44 of 2020 where trial has started.
3. This is the third journey of the petitioner to this Court seeking bail. In BLAPL No.7417 of 2020 vide order dated 03.02.2021, the prayer for bail of his wife-co-accused Manju Nanda had been allowed, but the prayer of the petitioner had been dismissed as not pressed. Thereafter in BLAPL No. 2007 of 2021 vide order dated 10.06.2021, the prayer for bail of the petitioner had been dismissed.

4. Mr. Mishra, learned counsel for the petitioner submits that the incident took place due to a quarrel over a trivial matter. Seven witnesses have been examined in the trial out of whom four witnesses -P.W.2 Ramesh Kumar Panda, P.W. 3 Kuni Nanda, P.W.4 Minati Nanda and P.W.5 Nilamani Nayak @ Chabi have not supported the prosecution case and P.W.6-Japani Nanda has stated that he had heard that there was fighting between the deceased and the petitioner. He further submits that the deceased had been taken to the hospital for treatment on 30.08.2020 but expired on 06.09.2020 and at the time of his death he was suffering from Covid-19.

5. Mr. C.S. Mishra, learned Addl. Government Advocate for the State opposes the prayer for bail and submits that the deceased died due to complications due to head injury and allegation against the petitioner is that he assaulted him on his head with a thenga and the informant – P.W.1 Sudhansubala Nanda and P.W.7-Tapas Kumar Nanda have supported the prosecution case. He however does not dispute the submission that the incident was a result of a quarrel between both sides over a trivial matter, four witnesses have been declared hostile and the deceased was suffering from COVID-19 when he died.

6. Considering the submissions of learned counsel for the respective parties, the nature of accusation against the petitioner and the circumstances surrounding the death of the deceased, the period of detention of the petitioner in judicial custody, I am inclined to allow this application for bail.

7. Let the petitioner- Sarbeswar Nanda be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, including the following conditions:-

- i) He will not threaten or try to influence prosecution witnesses while on bail.

ii) He will appear on each date before the trial Court when the case is posted for trial.

8. The BLAPL is accordingly allowed.

9. Urgent certified copy of this order be granted on proper application.

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Savitri Ratho)
Judge

Sukanta

