

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.10175 OF 2021

Guna @ Ghanashyam Behera ***Petitioner***
Mr. Samarendra Bahadur, Advocate

-versus-

State of Odisha ***Opposite Party***
Mr. Deepak Ranjan Parida, ASC.

CORAM:
MR. JUSTICE D.DASH

ORDER
20.01.2022

Order No.

01. 1. This matter is taken up through video conferencing mode.
2. The Petitioner being in custody in connection with Naikandihi P.S. Case No.124 of 2021 corresponding to G.R. Case No.403 of 2021 on the file of learned J.M.F.C., Basudevpur running for commission of offence under section 294/323/307/302/506/34 of the IPC, has filed this application under section 439 of the Cr.P.C. for his release on bail.
3. Learned counsel for the Petitioner submits that taking into account the manner in which the incident has taken place and the role of this Petitioner as alleged as also considering his age and period of detention when the investigation has already been completed, it is a fit case for grant of bail to this Petitioner. He submits that this Petitioner is said to have given a blow by means of a lathi on the head of the deceased in course of a tussle and another accused, namely, Chagala is said to have

been given a blow on the head of the deceased by means of a crowbar. According to him, accepting the said part to have been played by the Petitioner, the surrounding circumstances being cumulatively viewed; it cannot be said that the Petitioner had the requisite intention to cause the death of the deceased when the report of the Doctor is clear that one injury on the head has resulted the death.

4. Learned counsel for the State opposes the move. According to him, this Petitioner having given the blow on the head of the deceased by means of a lathi; at this stage, it cannot be said that he had no requisite intention. He further submits that all the accused in the case are similarly situated and in course of grant of bail to the Petitioner, there remains the score and likelihood that he would influence the prosecution witnesses.

5. Considering the submissions made; further keeping in view the materials on records with other surrounding circumstances as also the period of detention of the Petitioner in custody and on going through the order passed by the learned Addl. Sessions Judge; in the absence of any such impediment; it is directed that the Petitioner be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that:-

1. he will not indulge himself in any criminal activity;

2. will not threaten or terrorize the prosecution witnesses in any manner; and
3. will appear before the Court in seisin of the case on each date of posting of the case without fail.

6. The BLAPL is accordingly disposed of.

7. As the restrictions due to resurgence of COVID-19 situation are continuing, learned Counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587 dated 25th March, 2020 as modified by Court's Notice No.4798 dated 15th April, 2021 and Court's Office order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

**(D.Dash),
Judge.**

Himansu