

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.14656 of 2022

Sasmita Bayee

....

Petitioner

Mr. B.K. Ragada, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. Debasis Biswal, ASC

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

13.12.2022

Order No.

02.

1. Heard learned counsel for the Petitioner and the State.
2. This is an application for bail U/s.438 Cr.P.C. filed by the Petitioner in apprehension of arrest for her alleged involvement in the offences U/s.302/109/34 IPC.
3. It is submitted by learned counsel for the Petitioner that there is no direct allegation against the present Petitioner on the alleged death of the deceased. According to learned counsel the FIR allegation reveals that Bandan Bijay Bai, Surojit Bai and Santhbir Samant Bai and the present Petitioner in a concerted manner assaulted the Informant and his son Binod by means of brick bat and lathi. It is further contended that the actual assailant as alleged in the FIR goes to Bandan Bijay Bai and Surojit Bai and the present Petitioner may be considered for pre-arrest bail.
4. Learned counsel for the State, on the other hand, vehemently opposed the bail application contending that the present Petitioner along with co-accused persons together in furtherance of their common intention caused the assault on Binod to which he

succumbed and as such the prayer for bail should not be considered leniently.

5. Keeping in view the submissions of the parties and perusal of the FIR and other materials on record as placed by the learned counsel for the State, it is consistently alleged that the present Petitioner along with Surojit Bai, Bandan Bijay Bai and Santhbir Bai in furtherance of their common intention caused assault to the informant and his son whereby the son of the informant fell on the ground and Surojit Bai by means of a knife dealt blows to his belly. The entire over act having been conducted concertedly and in one breath causing the death of the son of the informant. The submission of the learned counsel with Sasmita had simply caused assault on the informant seems in correct. Further the statement of the witnesses as recorded under Section 161 Cr.P.C. more particularly the informant clearly indicates the Petitioner be one of the assailant along with three which caused the assault leading to the death of the deceased. The nature of death being homicidal and as reveals from the post mortem report and the same being the result of the assault the overt act of the present Petitioner cannot be seen in isolation in order to take a view in her favour other than the one alleged in the offence under Sections 302/109/34 IPC.

6. In such view of the matter, keeping in view the nature of allegations, the circumstances appearing, the seriousness and gravity of the offences, this Court is not inclined to grant anticipatory bail. The ABLAPL is accordingly dismissed.

(Chittaranjan Dash)
Judge

