

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11301 of 2022

***Navneet Saraowgi @ Chhotu
Singhanian & another***

Petitioners

Mr. D.K. Dey, Advocate

-versus-

State of Odisha

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

**ORDER
20.12.2022**

Order No.

01. 1. Heard learned counsel for the Petitioners and learned counsel for the State.
2. The Petitioners accused in connection with C.T. Sessions Case No.73 of 2022, pending on the file of learned Sessions Judge, Jharsuguda, arising out of Jharsuguda P.S. Case No.457 of 2022 for the alleged commission of offence under Sections 341/323/294/506/342/302/34 IPC.
3. Being aggrieved by the rejection of their application for bail U/s. 439 Cr.P.C. by the learned Sessions Judge, Jharsuguda by order dated 10.11.2022, the present BLAPL has been filed.
4. It is submitted that the Petitioners are in custody since 09.08.2022 and as charge sheet has been filed since 15.10.2022, their further continuance in custody is not warranted.

5. Learned counsel for the State opposes the prayer relying on the manner in which the injuries were inflicted on the deceased.

6. It is the admitted case of the Petitioners that the deceased was working in a Jewellery shop and on the allegation of theft from the shop, he was beaten and FIR was lodged on 09.08.2022 (Jharsuguda P.S. Case No.456 of 2022 under Section 408 IPC).

7. It is on record that when the deceased as an accused was produced before the police, on finding that there were injuries on his body, he was admitted in the hospital where unfortunately he passed away on 14.08.2022 and thereafter the present case which was initially registered under Sections 341/294/323/506/34 IPC wherein present Petitioner No.2 has been cited as accused no.1 and the Petitioner No.1 has been cited as accused no.2 turned to one under Section 302 IPC and after investigation, charge sheet has been filed, as noted above.

8. It is the submission of the learned counsel for the Petitioners that there was no intention on the part of the accused in assaulting the deceased and the time lag between the date of the alleged assault i.e. 09.08.2022 and the date of unfortunate death i.e. 14.08.2022 belies the accusation under Section 302 IPC.

9. Learned counsel for the State refutes such submission relying on the post-mortem report and also the statement of the parents of the deceased.

10. Statement of the parents of the deceased Arjun Pandey and Koushalya Pandey were recorded under Section 164 Cr.P.C. and the same are on record.

11. This Court also perused the Nephrology consultation when the deceased was admitted as an indoor patient and the report dated 13.08.2022 clearly refers to the head injury of the deceased.

12. On perusal of the post-mortem report it is seen that the deceased had suffered 18 injuries on his body including on the vital parts.

13. And from the post-mortem report it is evident that the death is due to blunt trauma to chest and its complication and it has been held as ante mortem in nature.

14. The manner in which the Petitioners chose to take the law into their hands and beaten the deceased black and blue for the alleged theft to the tune of 60 lakhs and the finding of the doctors who conducted the post-mortem, this Court is not persuaded to accept the submission of the learned counsel for the Petitioners that this is not a case under Section 302 IPC.

15. Hence, this Court is **not inclined** to entertain this bail application.

16. Accordingly, BLAPL stands rejected.

(V. NARASINGH)
Judge

PKS