

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.16718 of 2021

Debendra Kumar Rout* *Petitioner

Mr. P. Behera, Advocate

-versus-

State of Odisha* *Opp. Party

Mr. A.K. Beura,
Addl. Standing Counsel

CORAM:

JUSTICE S.K. SAHOO

ORDER

25.01.2022

Order No.

01.

This matter is taken up by video conferencing mode.

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in connection with C.T. Case No.739 of 2021 arising out of Nuapada P.S. Case No.221 of 2021 pending in the Court of learned S.D.J.M., Nuapada for alleged commission of offences under sections 302/120-B/34 of the Indian Penal Code.

Perused the F.I.R.

Learned counsel for the petitioner submitted that the petitioner is the Tahasildar -cum- Executive

Magistrate, Nuapada and initially on the first information report of one Baijayanti Besra, Nuapada P.S. Case No.03 dated 03.01.2020 was registered under sections 279/337/338 of the Indian Penal Code against unknown person and in the F.I.R., it is stated that on 30.12.2019 while the husband of the informant, namely, Jayalal Besra (hereafter the deceased) had been to Nuapada in a vehicle, one unknown vehicle dashed with the vehicle of the deceased as a result of which he sustained grievous injury and was shifted to District Headquarters Hospital, Nuapada for treatment and the doctor treated him and referred him to Ramkrishna Care Hospital, Raipur where he was undergoing treatment. He further submitted that during course of investigation of the said case, the deceased died and on completion of investigation, final report was submitted on 28.10.2020 and when notice was issued to the informant Baijayanti Besra, she filed the protest petition indicating therein that the petitioner and other co-accused persons committed murder of the deceased and that protest petition was treated as a complaint petition and it was referred to the Inspector in-charge of Nuapada police station for registration of the F.I.R. and accordingly, Nuapada P.S. Case No.221 dated 24.11.2021 has been registered under sections 302/120-B/34 of the Indian Penal Code. He further

submitted that there is absolutely no material to make out a case under section 302 of the Indian Penal Code and since the deceased met with an accident and was hospitalized and during course of his treatment, he died, that is how the final report was submitted in Nuapada P.S. Case No.03 of 2020. He further submitted that in a vindictive manner, the protest petition was filed making out the allegation under section 302 of the Indian Penal Code against the petitioner. He further submitted that since the petitioner is a Government servant, in the event he is arrested and detained in judicial custody, he will be placed under orders of suspension and therefore, the anticipatory bail application of the petitioner may be favourably considered.

Learned counsel for the State opposed the prayer for anticipatory bail.

Considering the submissions made by the learned counsel for the respective parties, the nature and gravity of the accusation against the petitioner, while not inclining to grant anticipatory bail to the petitioner, it is observed that in the event the petitioner surrenders in the Court below within a period of four weeks from today and moves for bail before the learned Court below, the same shall be disposed of as expeditiously as possible by the Courts below in accordance with law. The case records shall

be made available to the Court concerned. The findings of the final report in Nuapada P.S. Case No.03 of 2020 shall be taken into account by the learned Courts below while adjudicating the bail application.

The ABLAPL is accordingly disposed of.

Parties may utilize the soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed vide Office Order dated 7th January 2022.

RKM

