

BLAPL No. 732625 of 2015

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

This is an application under Section 439 Cr.P.C. for grant of bail to the petitioner in connection with Chhatrapur P.S. Case No. 84 of 2014 corresponding to S.T. Case No. 272 of 2014 pending in the file of learned Additional Sessions Judge, Chhatrapur for offence punishable under Sections 341/302/109/34 IPC and under Section 25(1-A)/27 of the Arms Act.

The petitioner moved an application for bail before the learned Additional Sessions Judge, Chhatrapur which was rejected on 6.4.2015.

Learned counsel for the petitioner submits that the petitioner is in custody since 11.6.2014 and in the meantime, after completion of investigation, charge sheet has been submitted under Sections 4341/302/109/34 IPC and under Section 25(1-A)/27 of the Arms Act. He further submits that the eye witness V. Gopal Krishna has stated that co-accused caught hold of the legs of the deceased, B.Jogendra Patra and the co-accused persons namely, B.Krishna Patra and Bhagirathi Patra assaulted the deceased by means of sword. He further submits that as per the post mortem report the deceased has sustained eight injuries and the cause of death is on account of multiple incised body injuries and excessive hemorrhage on account of such injuries. He further submits that the statement of the eye witness indicates that after the assaulted started the petitioner arrived at the spot and instigated the co-accused persons to finish the deceased. Learned counsel for the petitioner contended that the instigation part is absolutely improbable and there is no reason to instigate the co-accused persons when they have already assaulted the deceased and as such it cannot be said that the petitioner has abated the commission of the crime. He further submits that the petitioner is aged about 65 years and keeping in view the nature of materials available on record, the bail application of the petitioner may be favourably considered.

Learned counsel for the State has produced the case diary and opposed the prayer for bail and stated that the petitioner is equally liable like the co-accused persons who have assaulted the deceased.

Considering the submissions made by the learned counsels for the respective parties, nature of accusations against the petitioner and the role of the petitioner at the time of incident has stated by the eye witness and taking into account the age of the petitioner and the period of detention, I am of the opinion that it is a fit case for grant of bail to the petitioner.

Let the petitioner be released on bail in the aforesaid case on furnishing a bail bond of Rs. 20,000/- (Rupees twenty thousand) with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper.

The BLAPL is accordingly disposed of.

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

S.K.Sahoo, J.

