

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 235 of 2022

Sagar Kumar Prusty & another		Petitioners
		Mr. A. Mishra, Advocate
- Versus -		
State of Odisha		Opposite Party
		Mr. S.K. Mishra, Addl. Standing Counsel

CORAM:
JUSTICE SASHIKANTA MISHRA

ORDER
06.04.2022

Order No.

2.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioners and learned Addl. Standing Counsel for the State.
3. The petitioners are in custody since 07.03.2021 in connection with Nayapalli P.S. Case No. 124 of 2021 corresponding to C.T. Case No.6/59 of 2021 pending in the Court of learned 2nd Addl. Sessions Judge, Bhubaneswar for the alleged commission of offence under Sections 364/302/34 of IPC.
4. The prosecution allegation is that on the date of occurrence, both the petitioners, who are brothers, assaulted the deceased by means of a sword causing grievous injuries, as a result of which he died. After investigation, charge sheet has been submitted, wherein it is clearly mentioned that the deceased was himself was a drug addict and hooligan and that he used to threaten the petitioners demanding money from them, due to which there was ill feeling between them. That apart, on the night before the occurrence, the accused persons had abused him, due to which on the next day the deceased with the intention of taking revenge obstructed the

petitioners while they were coming on their motor cycle and assaulted the petitioner no.1 with a knife causing bleeding injuries on his head and hand. However both the petitioners managed to over power the deceased and attempted to take him to Nayapalli Police Station, but on the way, the deceased suddenly attacked petitioner no.2 by means of a knife, which he had kept concealed.

5. From the above narration of the case made in the charge sheet it is clear that the matter has arisen out of a sudden quarrel, in which the deceased himself was the aggressor. Though there is evidence of ill feeling between the petitioners and the deceased prior to the occurrence yet it cannot be said with certainty that the petitioners had acted with premeditation, rather, the materials on record would suggest that on being attacked by the deceased, they had retaliated.

6. Having regard to the above facts, the period of detention in custody and the fact that charge sheet has already been submitted in the case, I am inclined to allow the prayer for bail. Let the petitioners be released on bail on such terms and conditions as the court in seisin over the matter may deem fit and proper to impose including the condition that they shall personally appear before the trial Court on each date of posting of the case without fail.

7. BLAPL is accordingly disposed of.

8. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge