

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.538 OF 2022

Jadaba Sahu & Another

....

Petitioners

Mr. Jayadeba Behera, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. R. Tripathy, AGA.

CORAM:

MR. JUSTICE D.DASH

ORDER

02.02.2022

Order No.

01. 1. This matter is taken up by video conferencing mode.
2. The Petitioners being in custody in connection with Larambha P.S. Case No.75 of 2021 corresponding to G.R. Case No.441 of 2021 relating to S.C. Case No.43 of 2021 on the file of learned Additional Sessions Judge, Patnagarh running for commission of offence under sections 302/34, I.P.C., have filed this application under section 439 of the Cr.P.C. for their release on bail in the above mentioned case.
3. Learned Counsel for the Petitioners submits that these Petitioners being arrested in the case are in custody since 26.06.2021. He further submits that in the meantime investigation being complete; charge-sheet has been submitted and the prosecution case is that on the date of incident quarrel had ensued between the members of the prosecution party and the family members who are the neighbors concerning disposal/used of liquor pauches upon the land of the Petitioners. He further submits that it is said that in course of quarrel, the

Petitioners assaulted the deceased and his son and the death has taken place after two days while he was undergoing treatment. In view of all these above, he contends that the totality of the facts and circumstances of the case being viewed, it would not be a case under section 302, I.P.C. Therefore, he urges for grant of bail to these Petitioners as there remains no scope on the part of the Petitioners to flee from justice and tamper the evidence.

4. Learned Counsel for the State opposes the move. He submits that it is too premature a stage to accept the submission of the learned counsel for the Petitioners that the facts and circumstances do not make out a case under section 302, I.P.C. He, however, does not dispute that the parties were having prior enmity and in course of quarrel the incident had taken place wherein lathis have been used for causing the injury upon the deceased and his son.

4. Taking into account the submissions made; further keeping in view the materials on records with other surrounding circumstances as also the period of detention of the Petitioner in custody and on going through the order passed by the learned Addl. Sessions Judge; in the absence of any such impediment; it is directed that the Petitioners be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that:-

1. they will not indulge themselves in any criminal activity;
2. will not threaten or terrorize the prosecution witnesses in any manner; and

3. will appear before the Court in seisin of the case on each date of posting of the case without fail.
5. The BLAPL is accordingly disposed of.
6. As the restrictions due to resurgence of COVID-19 situation are continuing, learned Counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587 dated 25th March, 2020 as modified by Court's Notice No.4798 dated 15th April, 2021 and Court's Office order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

**(D.Dash),
Judge.**

Himansu

