

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2077 of 2022

Amiya Kumar Rout & Another		Petitioners
		Mr. D.P. Dhal, Sr. Advocate along with Mr. B.S. Dasparida, Advocate
		- Versus -
State of Odisha		Opposite Party
		Mr. S.K. Mishra, Addl. Standing Counsel

**CORAM:
JUSTICE SASHIKANTA MISHRA**

**ORDER
05.07.2022**

**Order No.
5.**

1. This matter is taken up through hybrid mode.
2. Heard learned Sr. Counsel for the petitioners and learned Addl. Standing Counsel for the State.
3. The petitioners are in custody since 13.12.2021 in connection with Nilagiri P.S. Case No.362 of 2021 corresponding to C.T. Case No.527 of 2021 pending in the Court of learned S.D.J.M., Nilagiri for the alleged commission of offence under Sections 306/506/34 of IPC.
4. It is alleged that the petitioners killed the deceased by shooting him with a pistol. It is submitted by Mr. D.P. Dhal, learned Senior Counsel that the entire case is based on circumstantial evidence but there is absolutely no material to show the complicity of the petitioners in the alleged occurrence. Learned Senior Counsel has drawn attention of the Court to the statement of the witness, Ratnakar Mohapatra, who has gone even to the extent of stating that the deceased may have killed himself.
5. Learned State Counsel has opposed the prayer for bail by submitting that there is evidence in the form of the statement of one

Abdul Rifaz Quadri to the effect that the petitioners were present outside the garage when occurrence took place, which can be treated as the 'last seen theory'.

6. I find considerable force in submission of learned Senior Counsel that there is no clear cut evidence, prima facie, to show the complicity of the petitioners in the alleged occurrence. On the contrary, there is some material to show that the deceased may have committed suicide by shooting himself with the gun which, significantly was recovered from the spot. In the FIR also, the name of the petitioners finds place being based on suspicion as the deceased had taken some loan from the petitioners.

7. Considering the above facts, as also taking into account the period of detention of the petitioners in custody and the fact that charge sheet has already been submitted, 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 and in case of even a single default, the Court below shall pass appropriate orders to take them to custody again.

8. BLAPL is accordingly disposed of.

9. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge

A.K. Rana