

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 2621 of 2022

**Papu @ Ballabha @ Sriballava Jena Petitioners
& another**

Mr. M. Kanungo, Sr. Advocate along
with Mr. S.R. Mohanty, Adv.
- Versus -

State of Odisha and another Opp.Parties

Mr. P. Tripathy, Addl. Govt. Advocate

CORAM:

JUSTICE SASHIKANTA MISHRA

**ORDER
12.08.2022**

**Order No.
04.**

1. This matter is taken up through hybrid mode.
2. Mr. P.K. Mishra, Advocate and associates enter appearance for the informant by filing vakalatnama, the same be kept on record.
3. Heard learned counsel for the petitioners, learned Addl. Standing Counsel for the State and Mr. P.K. Mishra, learned counsel for the informant.
4. The petitioners are in custody since 29.12.2021 in connection with Baisinga P.S. Case No.371 of 2021 corresponding to C.T. Case No.962 of 2021 pending in the Court of learned J.M.F.C., Betnoti for the alleged commission of offence under Sections 341/147/148/324/325/307/302/149 of IPC
5. It is alleged that the deceased was brutally assaulted by the petitioners and some other persons resulting in severe injuries, to which he ultimately succumbed. As per the prosecution story, there was altercation between two groups of villagers over the position of a hump on the road, due to which the members of one group assaulted the other and subsequently, when the deceased

and others also joined, they were also assaulted in which the deceased is said to have sustained fatal injuries. From the statement of one Sk. Semsul recorded under Section 161 Cr.P.C. it is evident that there was a free fight between two groups of villagers, in course of which, the members of each group assaulted the other.

6. Learned Senior Counsel appearing for the petitioners submits that it not clear as to who had assaulted the deceased and the injured persons and in any case, there was no premeditation or a definite intention to kill the deceased.

7. Learned State Counsel has also opposed the prayer for bail by submitting that the deceased had no role to play in the altercation but was mercilessly assaulted and therefore, no leniency should be shown to the petitioners.

8. Mr. P.K. Mishra, learned counsel appearing for the informant has also opposed the prayer for bail by submitting that the deceased sustained several injuries which proves that he was assaulted with a definite intention to do away with his life.

9. I have considered the rival submissions and also perused the materials on record. There appears to be some force in the contention of learned Senior Counsel for the petitioners that the occurrence arose out of a petty quarrel between two groups of villagers followed by a free fight in which members of both the groups assaulted each other.

10. Considering the above facts, as also the period of detention of the petitioners in custody, 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 and further they shall also appear before the Baisinga P.S. Case on every Sunday at 10 a.m. till conclusion of trial.

11. BLAPL is accordingly disposed of.

12. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge

A.K. Rana

