

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2763 of 2021

1. *Sayana @ Saina Mundari* *Petitioners*
2. *Dhaneswar Mundari*
3. *Jiban @ Jatin Mundari @*
Sukram Soy
4. *Jogendra Mundari*
5. *Debendra Mundari*
6. *Sikendra Mundari*

Mr. Partha Sarathi Nayak, Advocate
Versus

State of Odisha *Opp. Party*
Mr.S.S. Pradhan, AGA

CORAM:
JUSTICE SAVITRI RATHO
ORDER
11.02.2022

Order No.
04.

This matter is taken up through hybrid mode.

This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioners-Sayana @ Saina Mundari, Dhaneswar Mundari, Jiban @ Jatin Mundari @ Sukram Soy, Jogendra Mundari, Debendra Mundari & Sikendra Mundari in connection with C.T. (S) Case No. 09 of 2021 (Pallahara P.S. Case No.246 of 2020) corresponding to G.R. Case No.442 of 2020 pending in the Court of learned Additional Sessions Judge, Talcher for where charge sheet has been filed against them commission of offences punishable under Sections 302/201/34 of IPC.

The bail application of the petitioners was rejected on 22.03.2021 by the learned Additional Sessions Judge, Talcher in C.T. (S) Case No. 09 of 2021.

The prosecution case as per the F.I.R. in brief is that on 11.12.2020 at about 6 P.M., petitioner no.1 came to the house of the informant and took the father of the informant to his house in Sasndar village. At around 8 P.M., the younger brother and the mother of the informant found the father of the informant lying dead at some distance from the house of the petitioner no.1. The mother of the informant asked the petitioner no.1 about the manner of death of her husband but he denied any knowledge of it. The mother of the informant made further enquiry of the petitioner no.1 but he again denied any knowledge about the incident. Therefore, the informant suspects that his father has been killed by the present petitioners along with one Baneswar Mundari and thrown at some distance from the house of petitioner no.1

Mr. Partha Sarathi Nayak, learned counsel for the petitioners submits that petitioners are in custody since 14.12.2020 and there are no eye witnesses to the occurrence and witnesses have stated that they have heard about the incident (attack on the deceased-Sira Mundari). He further submits that from the case diary, it would be apparent that the deceased was always provoking and quarrelling with the villagers and has assaulted some of them on a few occasions. He further submits that since chargesheet has been filed no useful purpose would be served by detaining the petitioners in custody any further.

Mr. S.S. Pradhan, learned Additional Government Advocate opposes the prayer for bail and places the statement of Ram Singh Mundari who has stated about the quarrel between the accused persons and the deceased and assault on the deceased by Jiban @ Jatin Mundari @ Sukram Soy-petitioner no.3 and

Dhaneswar Mundari-petitioner no.2 with the help of the other accused persons.

Considering the nature of allegations against the appellants, materials collected against the petitioners, the period of their detention in judicial custody and the fact that the chargesheet has been filed, I am inclined to allow the prayer of petitioner no.1, 4, 5 & 6. The prayer of petitioner no.2-Dhaneswar Mundari and petitioner no.3- Jiban @ Jatin Mundari @ Sukram Soy is rejected at this stage.

Let the petitioner no.1-Sayana @ Saina Mundari, petitioner no.4-Jogendra Mundari, petitioner no.5-Debendra Mundari & petitioner no.6-Sikendra Mundari be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, including the following conditions:

1. They will not tamper with the evidence or indulge in any criminal activity while on bail.
2. They will not threaten or try to influence prosecution witnesses while on bail.

Violation of any condition will entail in cancellation of bail.

The BLAPL is accordingly disposed of.

Urgent certified copy of this order be granted as per rules.

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(Savitri Ratho)
Judge

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