

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 3550 of 2022

Goapl Sitha & Anr.

....

Petitioners

Mr. M. Chand, Adv.

- Versus -

State of Odisha

....

Opp.Party

Mr. S.K. Mishra,
Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

15.09.2022

Order No.

7.

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. As directed, the Registrar Judicial has submitted a report along with the explanations of the Dealing Assistant and Superintendent of Criminal Misc. Section Branch-II. Considering the reasons stated by the concerned employees, the explanation is accepted.
4. This is the second journey of the petitioners to this court seeking bail after rejection of their earlier bail application vide BLAPL No. 9977 of 2021. Liberty was granted to the petitioners to renew their prayer after examination of some material witnesses. In the meantime, five witnesses have been examined including the husband of the informant as P.W.-5.
5. The petitioners are in custody since 12.08.2021 in connection with Colliery P.S. Case No.261 of 2021

corresponding to C.T.(S) Case No.79 of 2021 pending in the Court of learned Addl. Sessions Judge, Talcher for the alleged commission of offence under Section 302/34 of IPC.

6. It is alleged that the deceased had gone to the house of the accused persons to consume liquor and for such purpose paid Rs. 500/- to the co-accused. He was asked to come in the evening to collect the balance amount as at that point of time change was not available with the petitioners. When the deceased went to their house in the evening, he was brutally assaulted and sustained several bodily injuries, due to which he died subsequently.

7. Mr. M. Chand, learned counsel for the petitioners referring to the depositions of the witnesses examined during trial submits that as per the version of the father of the deceased (P.W.-5) the occurrence took place on 21st June, 2022, but the deceased was admitted to the hospital two days later i.e. on 23rd June. This according Mr. Chand, proves that the injuries are not grievous in nature and therefore, if the deceased subsequently died, it was because of lack of treatment. It is further argued that there being absence of any prior motive and premeditation, the ingredients necessary to constitute the offence under Section 302 IPC are not made out.

8. Learned State Counsel has opposed the prayer for bail by submitting that there are as many as eight injuries on the person of the deceased which led to his death, which by itself shows the aggressive intent of the assailants.

9. Considering the rival submissions and taking into account the fact that the deceased was not treated for his injuries for two

days after the occurrence and in the absence of any evidence prima facie to show any premeditation on the part of the petitioners in committing the murder of the deceased, 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 seeking any representation. In case there is any default, learned court below shall issue NBW to take them to custody forthwith.

10. BLAPL is accordingly disposed of.

11. Issue urgent certified copy as per rules.

A.K. Rana



(Sashikanta Mishra)
Judge