

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.4311 of 2022

1. India Patika

2. Rabi Kumurika

....

Petitioners

Mr. S.K. Nayak, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr.Arupananda Das,

Addl. Government Advocate

**CORAM:
JUSTICE S.K. SAHOO**

ORDER

26.10.2022

Order No.

04.

This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioners and learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with Gudari P.S. Case No.28 of 2020 corresponding to C.T. Case No.21 of 2020 pending in the Court of learned Additional Sessions Judge, Gunupur for offences punishable under section 302/34 of the Indian Penal Code.

The petitioners moved an application for bail before the Court of learned Additional Sessions Judge, Gunupur, which was rejected on 04.05.2022.

Learned counsel for the petitioners submitted that the petitioners were taken into judicial custody on 02.05.2020 and their earlier bail applications in BLAPL No. 1646 of 2021 and BLAPL No. 1753 of 2021 were rejected vide common order dated 31.05.2021 relying on the statement of the eye witness Narayan Patika and the petitioners were given liberty to renew their prayer for bail after examination of the eye witness. Learned counsel further submitted that in the meantime the trial has already commenced and the Public Prosecutor has declined to examine the said eye witness Narayan Patika and other witnesses examined have not stated anything against the petitioners and therefore, in view of the change in the circumstance, the bail application of the petitioners may be favourably reconsidered.

Learned counsel for the State on verification of the case records submits that the other witnesses, who are yet been examined, are not very much relevant to prove the prosecution case.

Considering the submissions made by the learned counsel for the respective parties, the period of detention of the petitioners in judicial custody and since the eye witness has been declined by the prosecution and the other witnesses have not stated anything against the petitioner, in view of the change in the circumstances, I am inclined to reconsider the prayer for bail and direct the petitioners to be released on bail.

Let the petitioners be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) each with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the

matter with further terms and conditions as the learned Court may deem just and proper including the conditions that the petitioners shall appear before the learned trial Court on each date to which the case would be posted for trial.

Violation of any of the conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge

PKSahoo

