

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL No.4701 of 2022**

***Laba Kisan and another***

....

***Petitioners***

***Mr. D.K. Mohanty, Advocate***

***-versus-***

***State of Odisha***

....

***Opp. Party***

***Mr. S.S. Pradhan, AGA***

**CORAM:  
JUSTICE G. SATAPATHY**

**ORDER  
09.12.2022**

**Order No.**

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
  2. This is an application U/S. 439 of Cr.P.C. by the petitioners for grant of bail in connection with S.T. Case No.04 of 2022 arising out of Mahulpali P.S. Case No.133 of 2021 pending in the file of learned Addl. Sessions Judge, Kuchinda for commission of offences punishable under Sections 302/34 of IPC, on the allegation of committing murder of one Basant Kisan by giving blows with a spade, along with other co-accused persons.
  3. In the course of hearing of the bail application, Mr. D.K. Mohanty, learned counsel for the petitioners submits that even if the allegations are taken into consideration, no offence U/S.302 of IPC is attracted against the petitioners and at best a case of simple assault would be made out against the petitioners and the petitioners having already detained in custody since 12.10.2021, may kindly be enlarged on bail.

4. On the contrary, Mr. S.S. Pradhan, learned A.G.A. opposes the bail application of the petitioners by drawing attention of the Court to the disclosure statement of co-accused-Bipin Kisan and he further submits that although the principal accused Bipin Kisan had made the murderous assault on the deceased, but the petitioners had conjointly assaulted the deceased by means of lathis and, therefore, the petitioners should not be released on bail.

5. Considering the rival submissions made, taking into consideration the nature and gravity of the accusations raised against the petitioners as also the surrounding circumstance in which the deceased was killed and regard being had to the fact that the main allegation of assault on the deceased by means of a spade being directed against the co-accused Bipin Kisan, who is not the petitioner in this case and taking into consideration the other circumstances on record in entirety as well as the pre trial detention of the petitioners and further taking into consideration the status of the petitioner No.2 as an old lady, this Court admits the petitioners to bail.

6. Hence, the prayer for the bail of the petitioners stands allowed and the petitioners are allowed to go on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioners shall attend the trial Court on each date of posting without fail unless their attendance is dispensed with and that they shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

It is clarified that the Court in seisin of the case will be at liberty to cancel the bail of the petitioners without further reference to this Court, if any of the above conditions are violated or a case for

cancellation of bail is otherwise made out.

7. Accordingly, the BLAPL stands disposed of.
8. Issue urgent certified copy of the order as per Rules.

**(G. Satapathy)**  
**Judge**

*Subhasmita*

