

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 3799 of 2021

1. Telam Kana

2. Madkami Bucha

....

Petitioners

Mr.P.K. Nanda, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr.Arupananda Das,
Addl. Government Advocate

CORAM:

JUSTICE S.K. SAHOO

Order No.

ORDER

22.11.2022

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

Though on 16.11.2022, the learned counsel for the State made a submission that as per order dated 21.10.2022, Monalisa Kurami, the informant in the case has already been examined, for which the learned counsel for the petitioners was asked to produce the certified copy of the deposition of the informant but today, the learned counsel for the State has produced the written instruction dated 08.11.2022 received from the Inspector in-charge of Motu police station from which it appears that the said witness Monalisa Kurami was found absent in her

village and during enquiry it came to know that since about six months Monalisha Kurami and her family members left their village and went somewhere and nobody could be able to say their present address for which summons could not be served on the informant.

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 C.T. Case No.03 of 2021 arising out of Motu P.S. Case No.29 of 2020 pending in the Court of learned Sessions Judge -cum- Special Judge, Malkangiri for offences punishable under sections 302/201/34 of the Indian Penal Code read with section 4(1) of the Odisha Prevention of withch Hunting Act.

Learned counsel for the petitioners submitted that the petitioners are in judicial custody since 03.06.2020 and their earlier bail application in BLAPL No.7335 of 2020 was rejected as per order dated 15.03.2021 taking into account the statement of Agel Ganja and other materials on record and liberty was granted to the petitioners to renew the prayer for bail after examination of such witnesses in the learned trial Court.

The status report dated 08.10.2022 submitted by the learned trial Court indicates that out of total twenty seven charge sheeted witnesses, only five witnesses have been examined so far. Learned

counsel for the petitioners has filed the deposition copies of all the five witnesses from which it appears that nothing has come on record against the petitioners relating to their involvement in the alleged crime and though the star witness on behalf of the prosecution, namely, Agel Ganja has been examined as P.W.1 but he has not supported the prosecution case and declared hostile.

Learned counsel for the petitioners submitted that in view of the change in the circumstances after the rejection of the earlier bail application, the bail application of the petitioners may be favourably reconsidered.

Learned counsel for the State opposed the prayer for bail

Considering the submissions made by the learned counsel for the respective parties, the nature of evidence adduced during the trial so far, the period of detention of the petitioners in judicial custody and in view of the change in the circumstances after the rejection of the earlier bail application, I am inclined to reconsider the prayer for bail and direct the petitioners to be released on bail.

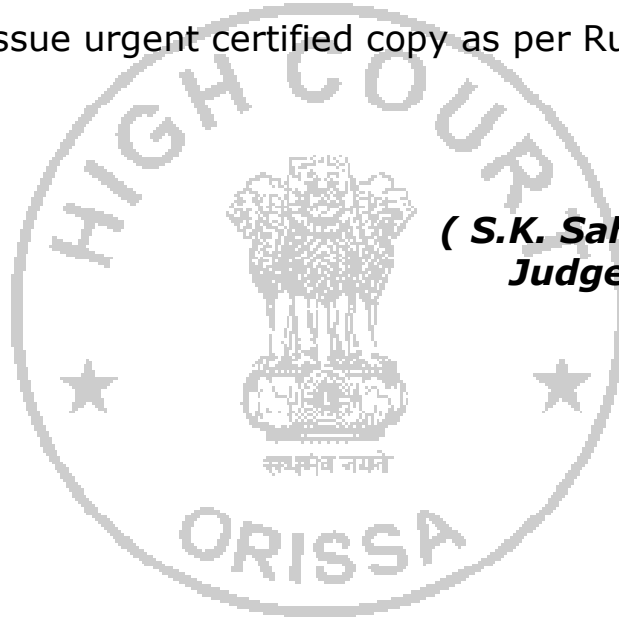
Let the petitioners be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) each with two local solvent sureties each for the like amount to the satisfaction of

the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper subject to conditions that the petitioners shall not indulge in any criminal activities, shall appear before the learned trial Court when the case would be posted for trial and shall not try to tamper with the prosecution witnesses. Violation of any of the conditions shall entail cancellation of bail.

BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge



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