

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.5080 of 2021

1.Rajkishore Gochhayat
2.Ramakanta Gochhayat
3.Ghana Gochhayat

.... **Petitioners**
Mr.Partha Sarathi Nayak, Advocate

Versus

State of Odisha

.... **Opp. Party**

Mr. S.S.Pradhan, AGA

CORAM:
JUSTICE SAVITRI RATHO

ORDER
23.02.2022

Order No.

03.

This matter is taken up through hybrid mode.

Heard Mr.Partha Sarathi Nayak, learned counsel for the petitioners and Mr. S.S.Pradhan, learned Addl. Government Advocate.

This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioners, namely, Rajkishore Gochhayat, Ramakanta Gochhayat and Ghana Gochhayat in connection with Kanhia P.S. Case No.13 of 2021 corresponding to G.R. Case No.64 of 2021 of the Court of learned S.D.J.M., Talcher for commission of offences punishable under Sections 302/201/34.

The bail application of the petitioner has been rejected on 29.06.2021 by the learned Addl. Sessions Judge, Talcher in C.T. (S) Case No.28 of 2021.

The prosecution allegation in brief is that on 09.01.2021 at about 10 p.m., the petitioners along with some other co-accused

persons jointly committed the murder of one Laxam Gochhayat, who is the brother of the informant. The informant asked her mother about the whereabouts of her brother, to which she replied that he has gone to his in-laws house to get his mother-in-law. Then the informant went to Bhalugadia and there she learnt that her brother has been killed and his body has been disposed of by the petitioners and the other co-accused persons.

Learned counsel for the petitioners submits that there is no direct material against the petitioners and they have been arrested during investigation on the basis of circumstantial evidence. He further submits that in the meanwhile 17 witnesses have been examined in the trial and only the I.O. remains to be examined and none of the witnesses supported the prosecution case. He also submits that the co-accused persons, Dasarathi Gochhayat and Safala Gochhayat, who are parents of the deceased and Lija @ Roji Gochhayat, wife of the deceased have been released on bail pursuant to order passed by this Court in BLAPL No.1929 of 2021. All the petitioners are in custody since more than one year. Furthermore, only the I.O. remains to be examined, for which no useful purpose will be served if the petitioners are detained in custody any further.

Mr. S.S.Pradhan, learned Addl. Government Advocate submits that charge sheet has been filed against the petitioners and co-accused persons for commission of offence under Sections 302/201/34 of I.P.C. But after going through the copies of depositions filed by learned counsel for the petitioners, he confirms the submission that all the witnesses who have been examined so far in the trial have not supported the prosecution case.

Considering the submissions made by the respective parties, and the nature of material available against the petitioners and the release of co-accused persons on bail, I am inclined to allow the prayer for bail of the petitioners.

Let the petitioners, namely, Rajkishore Gochhayat, Ramakanta Gochhayat and Ghana Gochhayat be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter in the aforesaid case, including the conditions that the petitioners will not threaten or attempt to influence any witnesses, not indulge in any criminal activity while on bail and appear before the learned trial court on each date of trial.

The BLAPL is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.

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(Savitri Ratho)
Judge

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