

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5940 of 2021

Muka Kabasi & another

.... ***Petitioners***
M/s. J.K.Panda, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.D.Nayak, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

05.09.2022

Order No.

- 06.
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 Podia P.S. Case No.6 of 2021 corresponding to G.R. Case No.58 of 2021 pending in the Court of learned J.M.F.C., Motu for commission of offence punishable U/Ss. 302/34 of I.P.C.
 3. In the course of hearing of the bail application, learned counsel for the petitioners submits that the petitioners although named in the F.I.R. are not the perpetrators of the crime and even if the allegations appearing on the record are taken to be true, at best it would be a case U/S. 304 of the I.P.C. since the petitioners have allegedly assaulted and killed the deceased finding the deceased to have tried to establish sexual relationship with the wife of petitioner No.2. It is also submitted that charge sheet has already been submitted. Further, it is submitted for the petitioners that in the above circumstance, the petitioners having detained in custody since 13.2.2021, may kindly be enlarged on bail.
 4. On contrary, learned counsel for the State, while opposing the bail application of the petitioners submits by placing the statement of one witness namely, Bhima Kabasi the younger brother of the deceased who has been projected as eye-witness that the petitioners are wholly

responsible for the death of the deceased and the eye witness accounts is squarely corroborated by the medical evidence as reflected in the post mortem report of the deceased and the petitioners being the main assailant should not be enlarged on bail.

5. Considering the nature and gravity of allegations and keeping in mind the rival submissions and taking into consideration the period of detention of the petitioners since 13.2.2021 and no criminal antecedent having been reported against the petitioners and regard being had to the circumstance of the alleged crime and no material being collected by the investigating agency to indicate about the petitioners absconding or tampering the evidence, this Court feels it proper to enlarge the petitioners on bail.

6. Hence, the prayer for bail of the petitioners is allowed and the Petitioners be released on bail on furnishing bail bonds of Rs.25,000/- with two solvent sureties each for the like amount to the satisfaction of the learned trial Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioners shall not leave the jurisdiction of the learned trial Court without prior permission and the petitioners shall attend the trial Court on each date of posting of the case unless their attendance is dispensed with by the learned trial Court.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge