

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.5768 of 2020

***Maheswar Kunja @
Mahesh Kunja***

.... Petitioners

Mr. Puspamitra Mohapatra,
Advocate

-versus-

State of Odisha

.... Opp. Party

Mr. Arupananda Das,
Addl. Government Advocate

BLAPL No.10572 of 2019

Debendra Kunja

.... Petitioner

Mr.N.R. Sahoo, Advocate

-versus-

State of Odisha

.... Opp. Party

Mr. Arupananda Das,
Addl. Government Advocate

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

ORDER

26.08.2022

Order No.

13. Both the matters are taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioners in both the cases and learned counsel for the State.

Since both the bail applications are under section 439 of Cr.P.C. in connection with C.T. Case

No.63 of 2019 arising out of M.V.79 P.S. Case No.01 of 2019 pending in the Court of learned Sessions Judge, Malkangiri for alleged commission of offences under sections 143, 341, 342, 323, 294, 302, 201, 506, 149 of the Indian Penal Code read with section 4 of the Odisha Prevention of Witch-hunting Act, 2013 with the consent of the parties, those are heard analogously and are disposed of by this common order.

Learned counsel for the petitioners submits that the petitioners are in judicial custody since 30.01.2019 and earlier bail application of the petitioners in BLAPL No.3226 of 2019 was rejected as per order dated 27.06.2019 relying on the statement of eye witness Kana Beti, the son of one of the deceased Deba Beti and Beti Lasi, the brother of other deceased Rama Beti. Learned counsel for the petitioners submitted that in the meantime, eight witnesses have been examined including those two eye witnesses, namely Kana Beti and Beti Lasi as P.W.5 and P.W.8 respectively and none of the witnesses have supported the prosecution case, for which they have been declared hostile by the prosecution and therefore, in view of the change in the circumstances, petitioners' bail application may be favourably reconsidered.

Perused the evidence of P.W.5 and P.W.8.

Learned counsel for the State after going

through the deposition copies of the witnesses examined in the learned trial Court fairly submitted that from the evidence of the witnesses examined so far, no material has come out against any of the petitioners.

Considering the submissions of the learned counsel for the respective parties, since the material witnesses have not been supported the prosecution case, taking into account the change in the circumstances after rejection of the earlier bail application and the period of detention of the petitioners in judicial custody, I am inclined to reconsider their prayer for bail and direct the petitioners to be released on bail.

Let the petitioners in both the cases be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000/- (rupees fifty thousand) each with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter with such terms and conditions as the learned Court may deem just and proper.

Accordingly, both the BLAPL are disposed of.

Issue urgent certified copy as per Rules.

(S.K. Sahoo)
Judge