

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.5974 of 2021

Sisir Naik @ Nayak & Ors.

....

Petitioners

Mr. D. Panda, Sr. Advocae

Mr. B.K. Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. D.Mund, AGA

CORAM:

MR. JUSTICE V. NARASINGH

ORDER

10.03.2022

Order No.

- 04.
1. This matter is taken up through hybrid mode.
 2. Heard learned counsel for the petitioners and learned counsel for the State.
 3. The Petitioners, being in custody in S.T. No.39 of 2021 arising out of G.R. Case No.69 of 2021 corresponding to Baramba P.S. Case No.71 of 2021 pending in the court of the learned J.M.F.C., Baramba for the alleged commission of offence under section 147/148/ 323/324/ 326/ 307/302/506/149 IPC read with section 25/27 of Arms Act and section 3 of Explosive Substances Act, have filed this application under section 439, Cr.P.C. for their release on bail being aggrieved by order dtd. 17.05.2021 passed by the Learned Addl. Sessions Judge, Athagarh rejecting the petitioner's application for bail.

4. Learned counsel for the Petitioners submits that the incident had arisen in a dispute between two rival groups of the villages and it was concerning the establishment of Anganwadi Centre over a patch of land. He further submits that around 200 persons have been arraigned as accused in the case and these Petitioners being arrested in the case are in custody for more than five months. He further submits that in the meantime, investigation of the case being complete even the committal proceeding is over. It is submitted that in so far as the role of these Petitioners are concerned, besides stating them to be the members of that assembly, it is said that they had pelted stones and mud balls etc. to the members of the rival group when specific allegation stands against accused Rohit and Manas that they had fired from the gun held by them. It submitted that there is also a counter case in connection with the incident wherein the members of the prosecution party are the accused persons. In view of all these above, when there remains no scope on the part of these Petitioners to flee from justice or tamper the evidence; he urges for grant of bail to these Petitioners as according to him, further detention of these innocent Petitioners for merely acting upon their emotion would not serve any useful purpose.

5. Learned counsel for the State opposes the move. According to him, it is too premature a stage to take a view that these Petitioners had not gone to the spot as members of the unlawful assembly having the common object of causing the death of the deceased persons. He also submits that the materials on record even if are taken as not suggestive of the fact that the common object of the unlawful assembly was not to cause the death of the persons yet it clearly suggest that at the spot it was so

developed and that can well attract the criminal liability of these Petitioners for the commission of principal offence as the member of that unlawful assembly.

6. Taking into account the submissions made; further keeping in view the role said to have been played by these Petitioners as emanate from the materials on records as also other surrounding circumstances including the period of detention of the Petitioners in custody; it is directed that the Petitioners be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin of the case with further conditions that they will appear in person before the court in seisin of the case on each date of posting of the case till conclusion of the trial; will not indulge themselves in commission of similar type of offence and will not terrorize or threaten the prosecution witnesses in any manner.

Violation of any of the above condition(s) shall entail cancellation of bail.

7. The BLAPL is disposed of accordingly.
8. Issue urgent certified copy as per rules.

(V.Narasingh)
Judge

Balaram