

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**BLAPL NO.6287 OF 2020**

***Nilamani Padhan & Others***

.... ***Petitioners***  
Mr. D. Panda, Advocate

*-versus-*

***State of Odisha***

.... ***Opposite Party***  
Mr.D.R. Parida, ASC.

**CORAM:  
MR. JUSTICE D.DASH**

**ORDER**  
**06.05.2022**

**Order No.**

- 05.
1. This matter is taken up by through hybrid arrangement (virtual/physical) mode.
  2. This is the successive journey of the Petitioners, who are in custody in connection with Ulunda P.S. Case No.78 of 2017 corresponding to S.C. Case No.19 of 2018 arising out of G.R. Case No.214 of 2017 pending on the file of learned Sessions Judge, Sonapur, running for the alleged commission of offence under section-302/34 of the IPC, in filing this application under section 439, Cr.P.C., for reconsideration of the prayer for grant of bail to the Petitioners.
  3. Learned Counsel for the Petitioners submits that the prosecution allegations stand that the members of the prosecution party of one hand and the Petitioner and his family members on the other where in enmical terms for quite a long period; and the incident is said to have taken place when the deceased holding the tangia started quarreling with the Petitioners. It is further submitted that in the meantime, star

witnesses for the prosecution having been examined, three of them have turned hostile and the Informant is not implicating the Petitioners and is stating to have heard about the incident. It is submitted that although in the incident, three persons have died yet; keeping in view the genesis of the occurrence wherein members of both sides have played their respective roles as well as the evidence on record, further detention of the Petitioners in custody is not warranted as that too would serve no useful purpose. In view of all these above, when the Petitioners have suffered in custody since 30.09.2017 and there remains no scope on the part of the Petitioners to flee from justice and tamper the evidence; he urges for reconsideration of the prayer for grant of bail to the Petitioners on such terms and conditions as deemed just and proper.

4. Learned Counsel for the State opposes the move. According to him, in the said incident three persons have been murdered and even if for a moment, it is accepted that the deceased was the aggressor, yet in the facts and circumstance of the defence of right of private defence of persons per se is not acceptable. It is further submitted that when the trial is going on and other witnesses are yet to be examined, it's too premature a stage to predict the result by going through the depositions of only four prosecution witnesses.

5. Taking into account the submissions made and on going through the materials as placed; further keeping in view the surrounding circumstances including the period of detention of the Petitioners in custody; while being inclined to reconsider the prayer for grant bail to the Petitioners in the aforesaid case,

it is directed that the Petitioners be released on bail on such terms and conditions as deemed just and proper by the Court in seisin of the case with further conditions that:-

1. Petitioners 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;
2. will appear before the IIC, Ulunda P.S. on every Monday in between 10 am to 2 pm till conclusion of the trial;
3. will not threaten or terrorise the prosecution witnesses in any manner and indulge herself in any criminal activity; and
4. will not leave the jurisdiction of the Court in seisin of the case till conclusion of the trial.

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

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

**(D.Dash),  
Judge.**

*Narayan*