

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6772 of 2021

Kailash Chandra Khatua ***Petitioner***
Mr. K.K. Jena, Advocate
-versus-

State of Odisha and another ***Opposite Parties***
Mr. M.K. Mohanty, A.S.C.
Mr. R.K. Mallick, Advocate for the
Informant

BLAPL No.5821 of 2021

Malaya Kumar Barik ***Petitioner***
Mr. S.C. Mohapatra, Advocate
-versus-

State of Odisha ***Opposite Party***
Mr. M.K. Mohanty, A.S.C.
Mr. R.K. Mallick, Advocate for the
Informant

BLAPL No.5987 of 2021

Bhikari Charan Swain ***Petitioner***
Mr. B. S. Dasparida, Advocate
-versus-

State of Odisha ***Opposite Party***
Mr. M.K. Mohanty, A.S.C.
Mr. R.K. Mallick, Advocate for the
Informant

BLAPL No.6079 of 2021

Khitish Kumar Acharya ***Petitioner***
Mr. B. S. Dasparida, Advocate
-versus-

State of Odisha ***Opposite Party***
Mr. M.K. Mohanty, A.S.C.
Mr. R.K. Mallick, Advocate for the

Informant

BLAPL No.6138 of 2021

Chaitanya Sethy

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Petitioner

Mr. B. S. Dasparida, Advocate

-versus-

State of Odisha

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Opposite Party

Mr. M.K. Mohanty, A.S.C.

*Mr. R.K. Mallick, Advocate for the
Informant*

BLAPL No.6692 of 2021

Aru @ Arabinda Khatua

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Petitioner

Mr. B. S. Dasparida, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. M.K. Mohanty, A.S.C.

*Mr. R.K. Mallick, Advocate for the
Informant*

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

14.02.2022

Order No.

- 03.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard Mr. D.P. Dhal, learned Senior Counsel appearing for the Petitioner, Mr. K.K. Jena, learned counsel appearing for the Petitioner and other learned counsels appearing in the above noted matters for Petitioners and also heard Mr. S.C. Mohapatra and Mr. R.K. Mallick, learned counsels appearing for the Informant and Mr. M.K. Mohanty, learned Additional Standing Counsel for the State.

3. The above noted batch of bail applications have been filed under Section 439 Cr.P.C. seeking release of the Petitioners on bail in connection with G.R. Case No.14 of 2021 pending in the court of learned J.M.F.C., Salipur, which arises out of Mahanga Police Station Case No.05 of 2021 for commission of offences under Sections 341/302/120-B/109/34 of the Indian Penal Code read with Sections 25 and 27 of the Arms Act.

4. The prosecution case in short is that one Ramakanta Barala lodged a written report on 03.01.2021 at about 7.15 P.M. inter alia alleging that on 02.01.2021 his father Kulamani Barala and a related grandfather, namely, Dibyasingha Barala while returning to their home from Jankoti by motorcycle, twelve accused persons including the present Petitioners being armed with deadly weapons such as sword, katuri, gun, hansuli, chapad assaulted the above named two persons as a result of which both the above named persons sustained serious bleeding injuries. Both the injured persons were shifted to the hospital and at the hospital both the injured persons succumbed to the injuries sustained by them as a result of aforesaid assault. The informant in the written report has specifically alleged that due to political rivalry with local influential leader and minister, the Petitioners were attacked and murdered.

5. Learned counsels for the Petitioners submitted that the allegations against the Petitioners are omnibus in nature and there are no eye witnesses to the alleged occurrence. Further he submits that both the deceased while they are being shifted to the hospital were not in a condition to talk. As such, they tried to impress upon the Court, the dying declaration recorded in this case recorded at the instance of the above named deceased persons and not trustworthy and hence, the same should be ignored. They further submitted that

the accused persons are in custody for more than one year in connection with the present case and as such, they contended that the Petitioners should be released on bail.

6. Learned counsel appearing for the informant, however, opposes the motion for bail of the present Petitioners referring to the statements of the witnesses, it was submitted that the above named two deceased persons were being threatened by local influential leaders of the ruling political party and in such view of the matter, they submitted that the motive is very clear from the materials collected by the Investigating Agency. It was further submitted that two deceased persons prior to their death have given a dying declaration wherein they have clearly named the present Petitioners along with other persons. They have also referred to some of the witnesses, who have stated about the preparation and conspiracy for commission of the crime. As such, they have opposed the prayer for grant of bail to the Petitioners.

7. Learned Additional Standing Counsel for the State while supporting the stand of the informant referred to the dying declaration and submitted that the Petitioners have been named by two deceased persons in their dying declaration. As such their involvement in the present crime is clearly established. He further submits that the present incident of brutal murder of two local people due to political rivalry has disturbed public order in the locality and in the event, these persons are released on bail, they will try to threaten and influence the prosecution witnesses and try to tamper with the prosecution evidences.

8. Learned Additional Standing Counsel appearing for the State further brings to the notice of this Court that the order dated 15.09.2021 passed in BLAPL No.2848 of 2021 for bail filed by the

co-accused Lalita Mohan Baral, who has also been named in the dying declaration. This Court after hearing the respective counsels and relying upon the dying declaration of both the deceased has rejected the bail application of the co-accused. He further submits that the co-accused Lalita Mohan Baral, whose bail application has been rejected by this Court, stands in similar footing with the present Petitioners.

9. Having heard learned counsels for the parties and upon perusal of the case records and considering the gravity of offence and the seriousness of the allegations made, I am not inclined to release the Petitioners on bail at this stage. Accordingly, the bail applications of the above named accused persons stand dismissed.

10. The BLAPLs stand dismissed.

11. Urgent certified copy of the bail applications be granted on proper applications.

Jagabandhu

