

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 7894 of 2022

***Kamaraju @ Kama Swain and
another***

Petitioners

Mr. S.K. Mahanty, Advocate

-versus-

State of Odisha

Opposite Party

Mr. A. Pradhan, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

14.10.2022

Order No.

01.

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 are accused in connection with S.T. Case No.177 of 2019 pending on the file of learned Additional Sessions Judge, Bhanjanagar, Dist-Ganjam, arising out of Jagannath Prasad P.S. Case no.76 of 2019 corresponding to G.R. Case No.320 of 2019 of learned S.D.J.M. Bhanjanagar, for alleged commission of offences under Sections 302/34 of IPC.
4. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Bhanjanagar by order dated 09.08.2022 in the aforementioned case, the present BLAPL has been filed.
5. The petitioners have preferred this application as in terms of the earlier direction of this Court as the trial could be concluded within the time fixed in terms of the order dated 09.03.2022 in

BLAPL No.4959 of 2020. Paragraph-4 and 5 of the order dated 09.03.2022 germane for just adjudication is quoted hereunder;

“4. Learned counsel for the State relying on the statement of one of the witness i.e, Sitaram Nanda who is yet to be examined submits that because of the petitioner obstructing the deceased from escaping the others could assault him and as such prays for rejection of the bail.

5. On consideration of the statement of Sitaram Nanda, this Court is not inclined to release the petitioner on bail at this stage. It is open to the petitioner to renew his prayer after examination of Sitaram Nanda, if so advised.”

6. The statement of the eye witnesses i.e., P.W.2 to 5, 8 and 10 submitted by the learned counsel for the petitioners is taken on record

7. P.W.10 is Sitaram Nanda, referred to in the earlier direction of this Court.

8. Considering that the said material witness has not supported the prosecution and taking into account the procrastination of trial, this Court directs the petitioners to be released on bail on such terms to be fixed by the learned Court in seisin over the matter so as to ensure their presence on each date of trial.

9. Accordingly, the BLAPL stands disposed of.

10. Urgent certified copy of this order be granted as per the rules.

(V. NARASINGH)
Judge