

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6954 of 2021

***Dandei @ Dhanaray Reddy &
others***

....

Petitioners

M/s. B.K.Ragada, Advocate

-versus-

State of Orissa

....

Opp. Party

M/s.P.K.Patnaik, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

30.09.2022

Order No.

- 08.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioners for grant of bail in connection with Laxmisagar P.S. Case No.190 of 2021 corresponding to C.T. Case No.3222 of 2021 pending in the Court of learned S.D.J.M., Bhubaneswar for commission of offence punishable U/Ss. 302/34 of the I.P.C. on the allegation that the petitioners and others in furtherance of their common intention called the deceased to a nearby place and killed him by using knife and iron pipe.
 3. In the course of hearing of the bail application, learned counsel for the petitioners submits that the petitioners have been falsely implicated in this case by the informant group in order to get rid of the case lodged by petitioner no.2-Raju Reddy for assault on him by the deceased and his associates which is quite evident from the FIR lodged in Laxmisagar P.S. Case No.189 of 2021. It is further submitted that even if for a moment, the allegations on record are taken to be true on the face of it, no offence U/S. 302 of the IPC is attracted against the petitioners in absence of any intention to cause death of the deceased and further the allegation of murder is against co-accused Chandra Reddy and Meena Reddy who had given recovery of weapon of offence pursuant to their disclosure

statement. It is further submitted that at best the materials on record would disclose about presence of petitioners at the spot and although the petitioners are innocent but they are languishing inside the jail custody since 08.06.2021 and in the mean while, charge-sheet has already been submitted in this case and there is hardly any chance of tampering of the witnesses by the petitioners. Learned counsel for the petitioners under these submissions prays to grant bail to the petitioners.

4. On contrary, learned counsel for the State, vehemently, opposes the bail application of the petitioners and he *inter-alia* submits that the deceased Kartik Sahu was not an accused in Laxmisagar P.S. Case No.189 of 2021 which was lodged by petitioner no.2-Raju Reddy against some other persons and in that case, the role of the deceased was limited to segregating the informant Raju Reddy and another group in a free fight between them which led Raju Reddy to sustain some injury in the said transaction but that does not permit the petitioners in this case to assault the deceased to take away his life. It is further submitted that the material allegations on record discloses a strong prima facie case against the petitioners for committing murder of the deceased and the petitioners thereby are not entitled to bail. Learned counsel for the State accordingly prays to reject the bail application of the petitioners.

5. After having considered the rival submissions advanced on behalf of the parties upon perusal of record, it appears that Raju Reddy is the informant in Laxmisagar P.S. Case No.189 of 2021 for assault on him and he is an accused along with others in the present case being Laxmisagar P.S. Case No.190 of 2021. Further, it is borne out from the submissions that Raju Reddy had sustained some injuries in Laxmisagar P.S. Case No.189 of 2021 but the deceased Kartik Sahu has allegedly being murdered in Laxmisagar P.S. Case No.190 of 2021 and deceased Kartik was also a part of the transaction in Laxmisagar P.S. Case No.189 of 2021 as intervener to pacify the two groups as submitted on behalf of the State. It is also not disputed that the petitioners are in custody since 08.06.2021

and the weapon of offence are recovered pursuant to the disclosure statement of co-accused Chandra Reddy and Meena Reddy who are not the petitioners in this case. Although this Court has directed the State Counsel to produce post mortem report of the deceased but no such post mortem report was made available for perusal of the Court even after one and half year of the commission of the murder of the deceased.

6. In view of the above facts and taking into consideration the rival submissions made by the parties, so also the period of detention of the petitioners in custody and the circumstance of alleged transactions of the crime and further taking into consideration the cherished object of personal liberty of an individual with utmost care and priority vis-à-vis the alleged occurrence in Laxmisagar P.S. Case No.189 of 2021 and 190 of 2021 and regard being had to the nature of allegations raised against the petitioners, this Court considers it proper to enlarge the petitioners on bail.

7. Hence, the prayer for bail of the petitioners is allowed and the Petitioners be released on bail on furnishing bail bonds of Rs.25,000/- each with two solvent sureties each for the like amount to the satisfaction of the learned trial Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the petitioners shall not leave the jurisdiction of the learned trial Court without prior permission till conclusion of trial and the petitioners shall attend the trial Court on each date of posting of the case unless their attendance are dispensed with.

8. Accordingly, the BLAPL stands disposed of.

9. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge