

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8044 of 2022

***Siba @ Shiva Behera &
another***

....

Petitioners

Mr. Arijeet Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Gaya, ASC

CORAM: JUSTICE V. NARASINGH

**ORDER
10.11.2022**

Order No.

03.

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 G.R Case No.23 of 2020, pending on the file of learned J.M.F.C., Khandapada, arising out of Khandapada P.S. Case No.24 of 2020, for commission of offence under Section 302/34 IPC and are in custody since 02.08.2022.
4. Being aggrieved by the rejection of their application for bail U/s.439 Cr.P.C. by the learned Addl. Sessions Judge, Nayagarh by order dated 11.08.2022 in the aforementioned case, the present BLAPL has been filed.
5. It is submitted by the learned counsel for the Petitioners that the co-accused Pradeep @ Tuku Das has been released on bail in BLAPL No.8092 of 2020 by order dated 23.03.2021. While considering the bail application of the co-accused, this Court had

specifically referred to the eye witness account of the widow of the deceased Amuli Das before she was examined in court as a witness.

6. Learned counsel for the Petitioners places on record the statement of the widow of the deceased Amuli Das, who has been examined as P.W.3. It is seen that she has not supported the prosecution. The said statement be kept on record.

7. It is seen that in the meanwhile 8 witnesses have been examined and out of the said 8 witnesses, none of the independent witnesses i.e. P.Ws.1 and 2 have supported the prosecution and as noted P.W. 3 the widow of the deceased most interested witness has resiled from her earlier statement.

8. Taking note of the same, this Court directs the Petitioners to be released on bail on such terms to be fixed by the Court in seisin over the matter 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 rule.

(V. NARASINGH)
Judge

PKS