

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7134 of 2021

Brundaban Nahak and another ***Petitioners***
Mr. D. Mohapatra, Advocate
-versus-

State of Odisha ***Opposite Party***
Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

21.02.2022

Order No.

05. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner, learned counsel for the Informant and learned counsel for the State. Perused the F.I.R., case diary and other relevant documents on record.
3. The Petitioners are accused in G.R. Case No.73 of 2020 arising out of Sheragada P.S. Case No.46 of 2020 pending in the court of learned J.M.F.C., Sheragada. Ganjam for commission of offence punishable under Section 302, I.P.C.
4. The Petitioner No.1-Brundaban Nahak is the father-in-law of the deceased and the Petitioner No.2-Anil Kumar Nahak is the brother-in-law of the deceased.
5. Learned counsel for the Petitioners submits that there is no eye witness to the alleged occurrence and the entire case is based on circumstantial evidences. He further submits that there is some doubt upon the statement, which was recorded after one year of the alleged occurrence. He also submits that there is no male member to look after the family of the Petitioners except his wife and two daughters.

6. Learned counsel appearing for the informant draws the attention of the Court to the statement recorded under Section 161 Cr.P.C. of eye witnesses, namely, Basanta Nahak and another witness Rajendra Nahak. Although an attempt was made to impress upon the Court that the witness, namely, Basanta Nahak, had not seen the occurrence but, he had seen the accused present nearby the spot.

7. In such view of the matter, learned counsel for the Informant opposes the prayer for bail of the Petitioners.

8. Learned counsel for the State also opposes the prayer for bail of the Petitioners relying upon the statement of the accused Petitioner No.1, who led the police for recovery of the weapon of offence and he further placed the post-mortem examination report of the deceased and doctor's opinion on the weapon of offence. He further submits that the contention of the case is based on circumstantial evidences. Therefore, he opposes the prayer for bail of the Petitioners.

9. Having heard learned counsel for the parties, and considering the materials available on record and the nature of the allegation and the fact that the case is based on circumstantial evidence for which, I am not inclined to release the Petitioner No.1-Brundaban Nahak on bail. So far as the bail application in respect of the Petitioner No.1-Brundaban Nahak is concerned, his bail application stands rejected.

10. Considering the submissions and the materials placed before the Court, it is directed that let the Petitioner No.2-Anil Kumar Nahak, who is the brother-in-law of the deceased be released on bail by furnishing a bail bond of Rs.50,000/- (rupees fifty thousand) with one local solvent surety for the like amount to the satisfaction of the learned court in seisin over the matter subject to conditions that the

Petitioner No.2-Anil Kumar Nahak shall not be involved in any offence of similar nature, he shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever and shall not make any default in attending the court during trial on each date of posting. Violation of any of the terms and conditions shall entail cancellation of bail.

11. It is open for the court in seisin over the matter to impose any other conditions in addition to the aforestated conditions as may be deemed just and proper.

12. The Bail Application is partly allowed.

13. Urgent certified copy of this order be granted on proper application.

Jagabandhu

