

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8598 of 2022

***Basudev Patra @ Cheru &
another***

....

Petitioners

Mr. B.K. Ragada, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. P.K. Maharaj, ASC

CORAM: JUSTICE V. NARASINGH

**ORDER
21.12.2022**

Order No.

- 02.
1. Heard learned counsel for the Petitioners and learned counsel for the State.
 2. The Petitioners are accused in G.R. Case No.47 of 2022 pending on the file of learned J.M.F.C., Sheragada, arising out of Sheragada P.S. Case No.38 of 2022, for commission of offence under Sections 341/294/323/324/354/307/506/302/34 IPC.
 3. Being aggrieved by the rejection of their application for bail U/s. 439 Cr.P.C by the learned Addl. Sessions Judge, Aska by order dated 26.08.2022 in the aforementioned case, the present BLAPL has been filed.
 4. It is submitted by the learned counsel that the Petitioners are in custody since 15.02.2022 and charge sheet has been filed on 11.05.2022 and taking into account the nature of allegation qua the deceased their detention in custody is not warranted.

5. Learned counsel for the State opposes the prayer for bail, inter alia, on the ground that not only the deceased succumbed to the injury inflicted on him on his head by the weapon of offence i.e. Tangia and on account of the statement recorded under Section 27 of the Evidence Act of both the Petitioners, there was recovery of weapon of offence.

6. Learned counsel for the State relied on the statement of the injured Nalini Kanta Dora charge sheeted witness no.17 to fortify his stand.

7. Learned counsel for the Petitioners relied on the statement of one Mithun and Bhiru charge sheeted witness nos.5 and 18 respectively.

8. Relying on the said statements it is submitted that there was altercation arising out of playing of cards between Nalini, his son Bhima and the present Petitioners and during the course of quarrel, they inflicted blows repeatedly and they were set apart by the intervention of local gentries and in the evening, again there was an altercation between Nalini and his son (charge sheeted witness nos.17 and 18) and the present Petitioners. The deceased Satyananda Dora tried to intervene and it is submitted that incidentally the blow fell on the head of said Satyananda Dora and ultimately he succumbed to the injuries for which the present Petitioners are facing allegation of committing offence under Section 302 IPC.

9. Learned counsel for the State while opposing the prayer submits that the Petitioners have to be held responsible for the act committed which resulted in the death of an innocent person.

10. Prima facie the Petitioners had no axe to grind against the deceased and there is material to indicate that any motive can be attributed to the Petitioners.

11. Considering the age of the Petitioners and the background in which the offence has been committed, 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.

12. It is needless to say that so far as complicity of the present Petitioners along with deceased is concerned, the observation made herein above are only for the purpose of consideration of the bail and their complicity is to be decided independently at the stage of trial.

13. Accordingly, the BLAPL stands disposed of.

14. Urgent certified copy of this order be granted as per rule.

PKS

