

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10227 of 2021

Judhistir Suna & others

Petitioners
....
M/s. P.K.Nayak, Advocate

-versus-

State of Orissa

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

CORAM:

JUSTICE G. SATAPATHY

ORDER

15.09.2022

Order No.

05. 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 Deogaon P.S. Case No.21 of 2021 corresponding to Sessions Case No.45/27 of 2021 pending in the Court of learned 2nd Addl. Sessions Judge, Balangir for commission of offences punishable U/Ss. 147/148/449/302/149 of the I.P.C.
3. In the course of hearing of the bail application, learned counsel for the petitioners submits that all these three petitioners have been falsely implicated in this case and there is no material on record to indicate the involvement of any of the petitioners. It is also submitted that the name of petitioner No.3 does not find place in the F.I.R. and he has been implicated and arrested in this case solely on the basis of confession of co-accused namely, Judhistir Suna and Haresh Suna and he is languishing inside the jail custody since 18.03.2021, whereas the other two petitioners are also inside the jail custody since 25.01.2021. It is further submitted that if the materials on record are taken on the face it to be true, no case is made out against any of the petitioners since no one had seen the petitioners committing the murder of the deceased and at best, the petitioner Nos. 1 and 2 being named in the F.I.R. can be suspected to have retaliated on sudden provocation for the transaction preceding to this occurrence in

which one of their fellow street man Sripati Suna was assaulted by the deceased with an axe resulting in his death in the hospital. It is also submitted that the petitioner No.3 was also assaulted by the deceased Dhanmat Raut by means of spear resulting in injuries on his head and fracture on his hand. Learned counsel for the petitioners under these submissions prays to admit the petitioners to bail.

4. On contrary, while opposing the bail application of the petitioners, learned counsel for the State by placing the F.I.R. submits that the petitioner Nos. 1 and 2 were found running away from the house of the deceased just immediate after the occurrence which itself goes a long way to prima facie disclose the allegation of murder against petitioner Nos. 1 and 2 and although the name of petitioner No.3 does not find place in the F.I.R. but the materials on record disclose his involvement in this case. It is also submitted for the State that the deceased had sustained eight injuries including some lacerated and chop wounds. Learned counsel for the State also by placing the statement of witness Akhaya Kumbahar submits that prior to this occurrence, the deceased had also assaulted one Sripati Suna in the agricultural field just outskirts of the village and came back to his house, for which the present petitioners had allegedly assaulted the deceased Dhanmat Raut and killed him as stated by the said witness. Learned counsel for the State under these submissions, prays to reject the bail application of the petitioners.

5. Considering the submissions advanced on behalf of the parties and taking into consideration the alleged implication of petitioner No.3 on the basis of confession of co-accused Judhistir Suna and Haresh Suna before the police and his period of detention since 18.03.2021 and also the period of detention of petitioner Nos. 1 and 2 since 25.01.2021 and there being no direct eye witness to the alleged occurrence and taking into consideration the manner and circumstance of commission of these occurrences as well as the supporting materials to the charge and no criminal antecedent having reported against any of the petitioners and keeping in view the

priority of personal liberty of individuals and no materials being placed on record to indicate about petitioners absconding or tampering evidence, this Court considers to enlarge the petitioners on bail.

6. 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 attend the jurisdictional Police Station once in a week for three months, record of which shall be submitted by the concerned I.I.C. positively to the Court in seisin of the case fortnightly and that the petitioners shall not visit to the house of the informant-victim nor roam near its vicinity in any case and that the petitioners shall not indulge themselves in any congregation or meeting in the village and that the petitioners shall not threaten, terrorize, influence and induce or promise any of the witness so as to dissuade him from disclosing such facts to the Court or tamper with the evidence and that the petitioners shall not leave the jurisdiction of the learned trial Court without prior permission till conclusion of trial in the case and the petitioners shall attend the trial Court on each date of posting of the case unless their attendance is dispensed with by the learned trial Court.

7. Violation of any of the conditions by the petitioners shall automatically entail cancellation of their bail. The Court in seisin of the case is also at liberty to cancel the bail of the petitioners for violation of any of the conditions in accordance with law.

8. Accordingly, the BLAPL stands disposed of.

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

(G. Satapathy)
Judge