

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 10669 of 2021

K. Nageshu Rao & Others

....

Petitioners

Mr. S.K. Mahanty, Advocate

- Versus -

State of Odisha

.... **Opposite Party**

Mr. P. Tripathy, Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

04.08.2022

Order No.
05.

1. This matter is taken up through hybrid mode.
2. As directed, Sri Sitansu Sekhar Mandhata, IIC of Chamakhandi P.S. is personally present and files an affidavit stating the reasons for non-submission of the case diary despite repeated communication made by the office of the Advocate General. Affidavit is accepted. In the affidavit it is stated that the case diary was submitted earlier in connection with BLAPL No. 6507 of 2021 on 26.08.2021, ABLAPL No. 10135 of 2021 on 28.09.2021 and in BLAPL No. 10244 of 2021 on 08.12.2021. Further, he submitted an intimation vide W.T. message on 29.01.2022 informing the office of the Advocate General regarding availability of the case diary in the aforementioned case and again he submitted an intimation through Special Messenger on 24.07.2022 to the office of Advocate General which was acknowledged on 25.07.2022. Such being the factual position, it is evident there has been no delay on the part of the IIC in transmitting the case diary to the court. His personal attendance is dispensed with.
3. The petitioner Nos.1 and 2 are in custody since 20.06.2021 and 21.06.2021 respectively in connection with Chamakhandi P.S. Case

No.120 of 2021 corresponding to G.R. Case No.523 of 2021 pending in the Court of learned S.D.J.M., Chatrapur for the alleged commission of offence under Sections 147/148/302/307/323/325/294/506/149/427 of IPC.

4. It is alleged that the petitioners committed the murder of the deceased by suspecting him to be practicing witchcraft. But in the meantime trial has already commenced with eight witnesses being examined including the informant as P.W.-1 and the injured eye-witnesses as P.W.-3. Both of them have turned hostile and so also the other witnesses.

5. In such view of the matter, prima facie it cannot be said that the petitioners were involved in the alleged occurrence.

6. Considering the above facts, as also taking into account the period of detention in custody, I am inclined to allow the prayer for bail. Let the petitioner be released on bail on such terms and conditions as the court in seisin over the matter may deem fit and proper to impose including the condition that he shall personally appear before the trial Court on each date of posting of the case without fail.

7. BLAPL is accordingly disposed of.

8. Issue urgent certified copy as per rules

(Sashikanta Mishra)
Judge