

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.11621 of 2021

***Susanta Kumar Dhalsamta &
another***

.... Petitioners

M/s.S.K.Padhy, Advocate

-versus-

State of Orissa

.... Opp. Party
M/s.S.S.Pradhan, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

26.10.2022

Order No.

- 04.
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 Chauliaganj P.S. Case No.12 of 2016 corresponding to S.T. Case No.119 of 2017 pending in the Court of learned Sessions Judge, Cuttack for commission of offence punishable U/Ss. 364/120(B)/302/201/34 of I.P.C. read with Section 25(1-B)(a)/25(1-AA)/27 of Arms Act on the allegation of kidnapping and committing murder of one Dipu by using fire arms and causing disappearance of evidence in the form of disposing the dead body of the deceased in pursuance to a conspiracy with co-accused persons.
 3. In the course of hearing of the bail application, Mr. Saroj Kumar Padhy, learned counsel for the petitioners submits that although a number of witnesses have been examined in this case but none of them have ever stated anything against the petitioners and it would be unnecessary to keep the petitioners behind the bar any more. It is also submitted that the present case is an outcome of a complaint lodged by the informant before the Court which was registered as F.I.R. after being sent to the jurisdictional Court U/S. 156(3) of Cr.P.C. and the allegations made in the said F.I.R. are not only concocted but also after thought, which by itself

emerges out in paragraph-5 of the complaint that no action was taken although F.I.R. was presented before the Police earlier. It is also submitted that the petitioners having detained in custody for more than six years are entitled to bail on that ground itself. Learned counsel for the petitioners under aforesaid submissions prays to enlarge the petitioners on bail.

4. On contrary, learned counsel for the State in reply opposes the bail application of the petitioners vehemently by submitting inter alia that the petitioners being noted and dreaded gangsters cannot be taken lightly especially when there appears allegations against the petitioners in the F.I.R. itself and they are not only involved in the murder of the deceased in this case but also for the allegation of murder of another person in another case. It is further submitted that the petitioners are also involved in several cases of serious offences and release of them on bail would have definite impact on free and fair trial. It is also submitted that the materials on record reflects serious allegations against the petitioners for committing murder of the deceased and the petitioners are, therefore, not entitled to be released on bail.

5. After having considered the rival submissions advanced for the parties upon reference to the allegations on record, there appear allegations against the petitioners for committing murder of one Dipu by hatching conspiracy with co-accused persons. The informant has specifically alleged against the petitioners in the complaint/F.I.R. for the murder of the deceased. The status report submitted by the State reflects that 97 out of 98 witnesses have already been examined leaving only the I.O. remaining to be examined in this case. It is no doubt submitted on behalf of the petitioners that none of the witnesses have stated anything against the petitioners but no copy of deposition was placed before this Court for perusal to evidence such fact. However, the status report as submitted by the State itself go to indicate that 22 number of criminal cases are pending against petitioner No.1, whereas 15 number of criminal cases are pending

against petitioner No.2 and the aforesaid conduct of the petitioners evokes a bonafide and reasonable apprehension of fear against the free and fair trial if they are allowed to go on bail. A careful perusal of record would also go to indicate some allegations against the petitioners and the informant has also alleged against these petitioners in the F.I.R for murder of the deceased.

6. In view of the above facts and taking into consideration the allegations levelled against the petitioners as well as the number of criminal cases pending against them and also the fact that the trial of the case is likely to be concluded very shortly in view of the fact that 97 out of 98 total witnesses have already been examined as submitted by the State and taking into account the nature and gravity of offences alleged against the petitioners and other surrounding circumstance of the commission of crime, this Court does not find any justification to grant bail to the petitioners. Hence, the prayer for bail of the petitioners stands rejected.

7. Accordingly, the BLAPL stands disposed of.

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

Kishore

(G. Satapathy)
Judge