



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.358 of 2013

1. Pradeep Nayak **Appellant/**
2. Malati Nayak **Petitioner**

Represented by Adv.-

Mr. P.C. Chhinchani, Advocate

-versus-

State of Odisha **Respondent/**
Opp. Party

Represented by Adv.-

Mr. Suvalaxmi Devi, ASC

CORAM:

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
AND

HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

ORDER

Order No.

23.03.2026

(Hybrid mode)

I.A. No.2122 of 2017

07. **1.** This is an application for bail on behalf of the appellants, who have been convicted by the learned Sessions Judge, Phulbani vide judgment dated 19.03.2013 in S.T. No. 43/2011 for the offences under sections 302/201/34 of the Indian Penal Code and were sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.10,000/- (rupees ten thousand) in default to undergo R.I. for six months for the offence under section 302 of IPC and further sentenced to undergo R.I. for three years and to pay a fine of Rs.1,000/- (rupees one



thousand), in default to undergo R.I. for two months for the offence under sections 201/34 of IPC and all the sentences shall run concurrently.

2. Heard learned counsel for the appellants and learned counsel for the State-Respondent.

3. During pendency of the appeal, the appellant no.1 was initially enlarged on interim bail vide order dated 31.07.2014 and he was directed to surrender on 04.09.2014. The record reveals that he has already surrendered and thereafter he has been pressing the regular bail plea through this application, but the same could not be heard since 2017.

4. We had asked the State Counsel to obtain the custody and conduct certificates of both the appellants. Learned counsel for the appellants filed a memo brining on record the custody certificate issued by the Senior Superintendent, Circle Jail, Phulbani (Welfare Services) on 27.10.2025. From the certificate, it appears that the appellant no.1 Pradeep @ Pari Nayak has already undergone custody for 14 years 2 months and 16 days as on 25.10.2025. Similarly, the appellant no.2-Malati Nayak has undergone custody for a period of 13 years 10 months and 3 days as on 25.10.2025. It also appears from the records that the appellants have no criminal antecedents and their jail conduct also satisfactory.

5. Both the counsels appearing for the parties have taken us to the evidence of the witnesses. Mr. Chhinchani,



learned counsel for the appellants submits that the case is based on circumstantial evidence and there is no direct evidence available on record. He submits that P.Ws.5 and 18 were examined by the prosecution to establish that the appellants were lastly seen with the deceased. They have deposed that appellant no.2 had called the deceased to accompany her to the river bank to bring Rs.100/- which she left there. The appellant no.2 took the torch from the witness and went towards the river and she was returned back alone. When she was asked about the whereabouts of the deceased, she disclosed that he had gone to attend the call of nature. It is also deposed by P.W.5 that he noticed blood stains on the face of the appellant no.2 and when she was asked as to how she has got blood stains on her face, she stated that her husband has assaulted her. It appears from the record that the dead body was recovered subsequently after couple of days.

P.W.7 was examined by the prosecution to establish the recovery of weapon of offence (Tangia) on the disclosure of the accused persons. P.W.17 was the doctor, who conducted the post mortem examination and he found ten injuries on the body of the deceased. P.Ws.11, 21 and 22 were the witnesses to the recovery of the dead body and those witnesses have also deposed that the accused persons have disclosed before them that they have committed the crime.

6. Ms. S. Devi, learned Addl. Standing Counsel



opposing the bail plea has taken us the evidence of P.W.17, the doctor, who has conducted the post mortem examination. She has highlighted the nature of injuries caused to the deceased and submits that it is a brutal and merciless killing and the appellants were directly connected to the crime through the circumstantial evidence.

7. True is that the prosecution could successfully brought on record the evidences establishing the involvement of the appellants in the crime. Therefore, we are not inclined to enlarge the appellants on regular bail. However, having regard to the period of custody of the appellants for more than 14 years and the fact that the appeal is pending since 2013 and there is no chance of early hearing of the appeal in the near future and keeping in view the principles laid down by this Court in ***Leti @ Jayadeb Roy and another Vrs. The State reported in (1990) 3 Orissa Criminal Reports 427***, we are inclined to release the appellants on interim bail for a period of three months from the date of their actual release. The appellants shall surrender before the learned trial court on expiry of three months period.

For the above period, let both the appellants be released on interim bail in the aforesaid case on furnishing bail bond of Rs.50,000/-(rupees fifty thousand) each with one local solvent surety each for the like amount to the satisfaction of the learned trial Court subject to condition



that while on interim bail the appellants shall not indulge in any criminal activities in any manner and any other condition to be imposed by the learned trial court as deem fit and proper in the facts and circumstances of the case..

Violation of any of the conditions shall entail cancellation of interim bail.

The I.A. is disposed of accordingly.

8. Issue urgent certified copy of this order as per rules.

(Manash Ranjan Pathak)
Judge

(Sibo Sankar Mishra)
Judge

CRLA No.358 of 2013

- 08.
- 1.** List this matter after three months.
 - 2.** Learned counsel for the appellants shall file the Surrender Certificate of the appellants on the next date.

(Manash Ranjan Pathak)
Judge

Ashok

(Sibo Sankar Mishra)
Judge