



IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.3365 of 2026

&

BLAPL No. 2320 of 2026

BLAPL No. 3365 of 2026

Raju Tarai

.... **Petitioner(s)**

Mr. Milan Kanungo,
Senior Advocate

-versus-

State of Odisha

.... **Opp. Party(s)**

Mr. P.S. Nayak, AGA

Mr. H.S. Mishra,
Advocate (Informant)

BLAPL No. 2320 of 2026

Kartika Parida

.... **Petitioner(s)**

Mr. Jyotirmaya
Sahoo, Advocate

-versus-

State of Odisha

.... **Opp. Party(s)**

Mr. P.S. Nayak, AGA

Mr. B.K. Ragada,
Advocate (Informant)

CORAM:

JUSTICE SIBO SANKAR MISHRA

Order

No.

03.

ORDER

06.05.2026

1. The petitioners are accused in connection with Khalikote
P.S. Case No.414 of 2024 corresponding to S.T. Case No.60



of 2024 registered on the allegation of the alleged commission of offence punishable under Sections 147/148/341/323/307/324/326/302/149 of the IPC read with Section 25 (1)(a) and 27(1) of the Arms Act, pending in the court of the learned Addl. Sessions Judge, Khallikote, Ganjam.

2. The petitioners had approached the learned Addl. Sessions Judge, Khallikote in S.T. Case No.60 of 2024 praying for grant of bail. The learned Court below vide its order dated 24.01.2026 and 10.10.2025 rejected the bail application of the petitioners. Being aggrieved, the petitioners have filed the present petition under Section 483 of BNSS, 2023 praying for enlargement on bail.

3. Learned counsel for the petitioners, on instruction from the petitioners, submits that, except the present bail application, no other bail application of the petitioners is pending in any other Court relating to the aforesaid F.I.R.

4. The allegations against the petitioners emerge out of FIR lodged by the informant, who is the father of the deceased-cum-himself a injured, are that the brother-in-law of the deceased and two to three others had been to affix posters of a political party on a particular place of the village which was protested by one co-accused namely Sudarshan Pahana @ Mandha leading to a quarrel between the deceased and his supporters on one side and the petitioners and others on the other side and in such quarrel, the deceased as well as injured Jitendra Pahana, Abhimanyu Pahana, Bapuji Pahana @ Chintu, Birat Pahana



and the informant were assaulted by means of sword and iron rods and accordingly, they were provided with treatment at different places, but the deceased succumbed to the injuries. Accordingly, the FIR in Khallikote PS Case No. 414 of 2024 was registered against nine known accused persons and fifteen to twenty others, but charge sheet was placed against twenty-three accused persons, out of whom fifteen co-accused have already been granted bail.

5. The prosecution has cited 64 witnesses, out of whom 15 witnesses have already been examined. It appears from the record that out of 64 witnesses, 14 witnesses have been cited by the prosecution as the eye witnesses including one Rama Pahan, who is the informant and eye witness. Out of the said fourteen cited eye witnesses, six eye witnesses have already been examined as P.Ws.3, 4, 8, 9, 13 and 14.

6. Mr. Kanungo, learned Senior Counsel appearing for the petitioner-Raju Tarei in BLAPL No.3365 of 2026 has strenuously argued that if the evidence of all the eye witnesses examined so far are read in unison, no case against the petitioner-Raju Tarei is made out, as none of the witnesses have attributed any overt act which has caused the death of the deceased. Particularly, he has drawn the attention of this Court to the evidences of witnesses, i.e., P.W.s. 1, 3, 4, 8 and 9.

Perusal of the evidences of these witnesses reveals that the petitioner-Raju Tarei has not assaulted the deceased, rather it is alleged that the petitioner-Raju Tarei only assaulted the informant Rama Pahan by a 'thenga'.



One of the witnesses have also stated that the present petitioner-Raju Tarei has assaulted Rama Pahan and Birat Pahan (P.W.4). However, Birat Pahan, has not attributed any overt act against Raju Tarai regarding the assault on him. Mr. Kanungo submits that P.Ws.8, 13 and 14 have deposed that Raju Tarei assaulted Rama Pahan by a 'thenga', whereas P.W.9 deposed that Raju Tarei dealt a sword blow to Rama Pahan. The varied evidences regarding the weapon of offence used by Raju Tarei to assault Rama Pahan has also created serious doubt regarding the trustworthiness of those witness

Mr. Kanungo, has pointed out from the evidence of P.W.1, who has conducted the post mortem of the deceased that the death is in fact caused due to wrong treatment given to the deceased. He has pointed out paragraphs-11 and 14 of the evidence of P.W.1, which reads as under:-

"11. Cubital fossa is the anterior aspect of the elbow joint. It is a fact that a common man with ordinary prudence will have no knowledge that cubital fossa comprises of vital vessels like brachial artery and vein which will cause massive bleeding due to cut injury.

*14. It is a fact that if the cut wound of the artery would have been stiched at the first instance at C.H.C., Khallikote, the blood flow could have stopped. It is a fact that if fluid and blood would have been infused to the injured at C.H.C., Khallikote, **there was chance that he might have survived.** The doctor explains that it also depends on body response."*

In view of the weak evidence borne on record as of today, particularly the evidence of the eye witnesses attributing virtually nothing against the petitioner-Raju



Tarai, he is entitled to bail.

7. Per Contra, Mr. Nayak, learned counsel for the State has submitted that P.Ws.3, 8, 9, 13 and 14, the eye witnesses although have not specifically attributed any overt act against the petitioner-Raju Tarei, but his active participation in the commission of crime is quite apparent from the evidence on record, therefore, Section 149 of IPC has been invoked. P.Ws.3, 8, 9 and 14 have specifically deposed that Raju Tarei has assaulted Rama Pahan and instigated other accused persons for commission of the crime. He also pointed out that besides the informant Rama Pahan, who is the prime injured eye witness, eight other eye witnesses have not yet been examined. He further vehemently submitted that the petitioner-Raju Tarei has fourteen criminal antecedents. Therefore, enlarging him at this stage is likely to cause endanger to the eye witnesses, as he has all potential to influence the witnesses once he is let off on bail.

8. Mr. H.S. Mishra, learned counsel appearing for the complainant has also vehemently opposed the bail plea of the accused Raju Tarei on various grounds by taking this Court to the evidence of the witnesses. He has also taken this Court to the judgment dated 11.08.2025 passed in BLAPL No. 1253 of 2025 and submits that after rejection of the bail plea of the petitioner-Raju Tarei since there is no change of circumstances, the present bail application is liable to be rejected on that count alone. He has pointed out paragraph-6 of the said judgment to impress upon this Court regarding the non-changing of the circumstances,



which reads thus:-

“6. After having considered the rival submissions upon perusal of record, it is not in dispute that 9 witnesses have already been examined in this case, but the informant and some other eye witnesses are yet to be examined, but law is well settled that detail analysis of evidence and meticulous examination of documents on merits should be avoided at the time of consideration of bail applications. It is, however, not in dispute that 15 co-accused persons have already been granted bail by a Coordinate Bench of this Court, but they stand on a different footing with that of some of the present petitioners inasmuch as there is allegation against the petitioners-Papu Tarei, Raja Tarei and Raju Tarei for assaulting the deceased and injured persons by lethal weapons allegedly supplied by petitioner-Kartika Parida, however, there is allegation against some of the co-accused persons for assaulting the injured and deceased by giving fist and kick blows. In such scenario, especially when the informant and some eye witnesses are yet to be examined, it would not be proper to grant bail to those petitioners who have allegedly assaulted either the deceased or the injured persons with lethal weapons or the petitioner who had allegedly supplied the lethal weapons to the co-accused persons at the time of occurrence. Besides, it cannot be forgotten that petitioner-Raju Tarei has 13 criminal antecedents including another case of 302/34 of IPC and Kartika Parida has got 3 criminal antecedents.”

9. In so far as the petitioner-Kartika Parida in BLAPL No. 2320 of 2026 is concerned, the evidence brought on record by the prosecution as of today reveals that Kartika Parida is the one who has brought swords and iron rods in a sack and distributed it amongst other accused persons for the purpose of attacking the deceased. The evidence of all the



eye witnesses examined so far reveals that they have very specifically deposed that it is Kartika Parida, who has brought three swords and iron rods in a sack and distributed it amongst Papu Tarei, Bablu Sahu and Raja Tarei. These accused persons have assaulted mercilessly to the deceased causing his death. It is also pointed out that the accused-Kartika Parida has four criminal antecedents.

10. Mr. B.K. Ragada, learned counsel appearing for the complainant in BLAPL No. 2320 of 2026 has relied upon the judgment of the Hon'ble Supreme Court reported in **2024 SCC OnLine SC 3539 (x.....Petitioner vrs. State of Rajasthan and another)** and submits that once the accused persons are having criminal antecedents and the trial is going on, the Court should not leniently grant bail to the petitioner(s) involved in heinous crime. He has specifically relied upon paragraph-14 of the said judgment, which reads as under:-

“14. Ordinarily in serious offences like, rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.”

11. Taking into consideration the aforementioned submissions made by the counsels appearing for the contesting parties and in view of the fact that the trial in the present case is going on at an expected pace and eight eye witnesses including the informant has not yet been examined and in view of the numerous criminal antecedents of the accused persons and also taking into consideration the judgment of the Coordinate Bench of this



Court passed on 11.08.2025 in BLAPL No. 1253 of 2025, grant of bail to the present petitioners at this stage would endanger the eye witnesses and would also cause delay in conclusion of the trial. Therefore, at this stage, the bail applications are rejected. However, liberty is granted to the petitioners to renew their bail plea after the eye witnesses are examined. It is also expected that the learned trial court shall do well to see that the remaining eye witnesses are to be examined preferentially over all other formal/official witnesses. The petitioners may renew their bail plea after six months or after examination of remaining eye witnesses, whichever is earlier. However, it's made clear that the petitioners shall not cause delay in the trial proceeding.

12. With the aforesaid observations, the bail petitions are disposed of.

(S.S. Mishra)
Judge

Ashok

Signature Not Verified

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Signed by: ASHOK KUMAR JAGADEB
MOHAPATRA
Reason: Authentication
Location: High Court of Orissa
Date: 07-May-2026 18:31:02

