

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 540 of 2021

Daina Prusty

***.... Petitioner
Mr. R.N. Rout, Advocate***

Versus

State of Odisha

***.... Opposite Party
Mr. P.K. Mohanty, A.S.C.***

**CORAM:
JUSTICE SAVITRI RATHO**

**ORDER
27.01.2022**

Order No.

05. 1. I have heard Mr. R.N. Rout, learned counsel for the petitioner and Mr. P.K. Mohanty, learned Addl. Standing Counsel for the State through virtual mode.
2. This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner- Daina Prusty in connection with Khaira P.S. Case No.129 of 2020 corresponding to C.T. Case No.498 of 2020 pending in the Court of the learned J.M.F.C., Soro for commission of offence punishable under Section 302 of the I.P.C.
3. The petitioner had moved an application for bail before the Court of learned Special Judge (Vigilance), Balasore which was rejected on 23.12.2020.
4. The prosecution allegations in brief are that on 11.07.2020 at about 8.00 p.m. the informant, who is the brother of the deceased, received information from the police that the dead body of his sister Rai @ Anita Singh has been recovered from the river. The dead body of deceased was sent to Soro Hospital for post mortem examination. The deceased a deserted lady, had fallen in love with the petitioner

and was staying with him in a rented house since around six months prior to the occurrence. On the day of occurrence the petitioner had quarrelled with the deceased and forcibly taken her with him with his cycle on the pretext of taking her home and on the way pushed her into the river with his cycle, resulting in her death.

5. Mr. Rout, learned counsel for the petitioner submitted that the petitioner is in judicial custody since 15.07.2020 and charge sheet has been submitted under Ssection 302 of the I.P.C. He further submits that the deceased and the accused were drunk and they quarrelled on the way back home as a result, the deceased fell in the river alongwith the cycle and drowned and he had no intention or motive to kill her. He placed the statement of Biti Singh and Abhiram Sahoo in support of his submission.

6. Mr. P.K. Mohanty, learned Addl. Standing Counsel for the State opposed the prayer for bail stating that the deceased was drunk and the petitioner has deliberately brought her with him and pushed the deceased into the river with intention to kill her and as she was drunk, she could not save herself and he placed the statement of Ganesh @ Ganga Singh, Dipu @ Abhinash Mohanty and Santilata Nayak in support of his submission that the petitioner being the author of the crime should not be released on bail.

7. I have gone through the case diary. Witnesses have stated that the deceased and petitioner had both drunk mahula and while they were walking to their rented house and the deceased was pulling the cycle on the bridge, they were having a heated argument and suddenly there was a splash and she and the cycle fell in to the river. The petitioner intimated a few persons and they looked for the body but could not find it. None of the relatives of the deceased nor their landlady have spoken about prior quarrel or dispute between them.

As the post mortem report did not reveal ballooning of lungs, opinion on cause of death was reserved. It appears that chargesheet has been filed without waiting for the final opinion regarding cause of death.

8. Considering the submissions of learned counsel for the respective parties, the nature of materials collected against the petitioner the period of his detention in custody, I feel that no useful purpose will be served by detaining the petitioner in custody any further for which I am inclined to allow the prayer for bail.

9. Let the petitioner- Daina Prusty be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter, including the following conditions:

(i) The petitioner will not indulge in any criminal activity while on bail.

(ii) The petitioner will not threaten or try to influence prosecution witnesses while on bail.

10. Violation of any condition will result in cancellation of bail.

11. The BLAPL is accordingly disposed of.

12. In view of the restrictions due to resurgence of COVID-19 situation, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020, modified by Notice No.4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

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(Savitri Ratho)
Judge