

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.904 of 2022

Bikash Jena

....

Petitioner

Mr. S.R. Mohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Shashank Patra, A.S.C.

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

05.09.2022

Order No.

05. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Addl. Standing Counsel for the State.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioner for anticipatory bail, involving offences punishable under Sections 498-A/302/304-B/34, I.P.C. and Section 4 of D.P. Act.
4. Learned counsel for the Petitioner submits that although initially the case was registered for commission of offence under Sections 498-A/302/304-B, I.P.C. read with Section 4 of D.P. Act, but in the meantime charge-sheet has been filed under Sections 498-A/304-B/406, I.P.C. read with Section 4 of D.P. Act.

He further submits that the co-accused persons, i.e. parents of the present Petitioner have already been released on bail. He also submits that the post-mortem report reveals that the cause of death of

the deceased is due to asphyxia. Learned counsel for the Petitioner further submits that, on the basis of materials available on record it is found that the deceased had closed the door of the room from inside, from where her body was recovered by breaking open the door and she was taken to the hospital. However, at the hospital she was declared dead by the doctor.

5. Considering the seriousness of the allegation, gravity of the offence and the facts of the case, although I am not inclined to grant anticipatory bail to the Petitioner, however the Petitioner is given liberty to surrender before the learned J.M.F.C., Aul in G.R. Case No.423 of 2020 corresponding to Rajkanika P.S. Case No.243 of 2020 in the first hour within 21 working days hence and move for bail. In such event, the learned Magistrate shall consider the bail application of the Petitioner in the first hour of the day, strictly on the basis of the materials available on record. In case of rejection of the bail application by the learned Magistrate, the Petitioner may move for bail before the higher forum in the second hour of the same day. In that event, the higher forum shall consider and dispose of the bail application of the Petitioner on the same day on merit, strictly on the basis of the materials available on record. Case Diary be made available to the learned courts below as soon as possible to facilitate in disposing of the bail application of the Petitioner on the same day itself.

6. Ground of parity, if canvassed by learned counsel for the Petitioner, may be taken into consideration by the learned courts below as per law, while disposing of the bail application of the Petitioner on merit.

7. The ABLAPL is disposed of accordingly.
8. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge

S.K.Parida

