

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.710 OF 2022

Mahadev Bala

....

Petitioner

Mr. D. Nayak, Sr. Advocate

-versus-

State of Odisha

....

Opposite Party

Mr.D.R. Parida, ASC.

CORAM:

MR. JUSTICE D.DASH

ORDER

10.05.2022

Order No.

- 03.
1. This matter is taken up by through hybrid arrangement (virtual/physical) mode.
 2. This is the successive journey of the Petitioner, who is in custody in connection with Birkampur FCI P.S. Case No.51 of 2019 corresponding to C.T. (S) No.06 of 2020 arising out of G.R. Case No.611 of 2019 pending on the file of learned S.D.J.M., Talcher, running for the alleged commission of offence under section-498-A/302/34 of the IPC read with section-4 of the D.P. Act, in filing this application under section-439 of the Cr.P.C., for reconsideration of the prayer for grant of bail to the Petitioner in the above mentioned case.
 3. Learned Senior Counsel for the Petitioner submits that although the Petitioner is in custody since 08.06.2019, the trial has not yet been completed and in the meantime the members of the house of the Petitioner having been examined have stated that at the relevant time, the Petitioner was not present at home.

He further submitted that the Petitioner being a permanent resident of the district of Angul, there arises no scope on his part to flee from justice and the question of tampering the evidence also does not arise since relations of the deceased at whose instance, the case has been falsely initiated are purposely not attending the Court to give evidence with a view to harass the Petitioner and put him to sufferings being in custody. He therefore, urges for reconsideration of the prayer for grant of bail to the Petitioner.

4. Learned Counsel for the State opposes the move. According to him, the death of the deceased having taken place on account of strangulation; the Petitioner being the husband on the face of the allegation as to demand and torture with reference to earlier incidents, the presumption as to culpability of the Petitioner stands. He further submits that in the facts and circumstances of the case at this stage of the trial, the release of the Petitioner on bail would not be in the interest of justice.

5. Taking into account the submissions made and on going through the materials as placed; further keeping in view the surrounding circumstances including the period of detention of the Petitioner in custody; while being inclined to reconsider the prayer for grant bail to the Petitioner in the aforesaid case, it is directed that the Petitioner be released on bail on such terms and conditions as deemed just and proper by the Court in seisin of the case with further conditions that:-

1. Petitioner will appear in person before the Court in seisin of the case on each date of posting of the case till conclusion of the trial;
2. will appear before the IIC, Bikrampur FCI P.S. on every Monday in between 10 am to 2 pm till conclusion of the trial;
3. will not threaten or terrorise the prosecution witnesses in any manner; and
4. will not leave the jurisdiction of the Court in seisin of the case till conclusion of the trial.

Violation of any of the condition(s) shall entail cancellation of bail.

5. The BLAPL is accordingly disposed of.
Issue urgent certified copy as per rules.

*(D.Dash),
Judge.*

Narayan