

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.745 of 2022

Byomakesh Chaudhury

.... ***Petitioner***
Ms. S.Jena, Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.P.K.Patnaik, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

09.11.2022

Order No.

- 07.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the Petitioner for grant of bail in connection with Sarankul P.S. Case No.37 of 2021 corresponding to S.T. Case No.176 of 2021 pending in the Court of learned Sessions Judge, Nayagarh for commission of offence punishable U/Ss. 498-A/304-B/302/34 of the I.P.C. read with Section 4 of the D.P. Act, on the allegation of committing murder and dowry death of the deceased by subjecting her to torture and cruelty prior to her death for demand of dowry of Rs.50,000/-.
 3. In the course of hearing of the bail application, Mrs. S. Jena, learned counsel for the petitioner submits that there was some family dissensions between the parties which led the deceased to take poison without the knowledge of the petitioner but when the deceased vomited, the petitioner and his family members took her to hospital where the deceased succumbed and there is absolutely no materials on record to find out any allegation against the petitioner for demanding dowry or torturing the deceased prior to her death. It is further submitted that all other co-accused persons have already been granted bail and the petitioner being a law abiding citizen has voluntarily surrendered before this Court pursuant to an order passed in ABLAPL No.11250 of 2021 for grant of pre-arrest

bail to him and from the date of surrender, the petitioner is inside judicial custody and in the meanwhile, near about one year has elapsed. It is further submitted that so far five witnesses have been examined till today in this case but none have supported the prosecution case and there is serious contradictions in the statement of parents of the deceased who have stated against the petitioner to have killed the deceased by repeatedly assaulting her but the fact remains that the deceased committed suicide for the reason beyond the knowledge and control of the petitioner. It is accordingly prayed by her to grant bail to the petitioner.

4. On the contrary, learned counsel for the State seriously opposes the bail application of the petitioner by inter alia submitting that the cause of death of the deceased is due to poisoning as revealed from the post mortem report and the petitioner being the husband of the deceased cannot be equated with co-accused released on bail. Learned counsel for the State, however, does not dispute the submissions made for the petitioner about the in-laws taking the deceased to hospital and killing the deceased by repeatedly assaulting her.

5. Considering the rival submissions made, the pre trial detention of the petitioner since 30.11.2021, release of co-accused persons on bail and keeping in mind the progress of trial and the fact that the post mortem report discloses the cause of death of deceased to be due to organo prosperous poisoning (insecticide) but no external injury being noticed on the person of the deceased in the post mortem report and regard being had to the manner and circumstance of the crime and the supporting materials collected by the investigating agency and the fact that the petitioner has surrendered to the custody after availing the interim bail, this Court considers the bail application of the petitioner favourably.

6. Hence, the prayer for bail of the petitioner is allowed and the Petitioner be released on bail on furnishing bail bonds of Rs.50,000/- with two solvent sureties each for the like amount to the satisfaction of the learned trial Court in seisin of the case on such terms and conditions as

deem fit and proper with further conditions that the petitioner shall not leave the jurisdiction of the learned trial Court without prior permission till conclusion of the trial and the petitioner shall attend the trial Court on each date of posting of the case unless his attendance is dispensed with.

7. Accordingly, the BLAPL stands disposed of.
8. Urgent certified copy of the order be granted on proper application.

Kishore

