

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.925 of 2022

Akshaya Khuntia

....

Petitioner

Mr.Soura Ch. Mohapatra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. B. Panigrahi, ASC

CORAM:

MR. JUSTICE D.DASH

ORDER

06.07.2022

Order No.

02.

1. This matter is taken up through hybrid arrangement.
2. This is the second journey of this petitioner, who is in custody in connection with Salipur P.S. Case No.01 of 2021 corresponding to S.T. Case No.19 of 2021 pending in the Court of the learned Additional Sessions Judge, Salipur for offence punishable under sections 498(A)/304(B)/306/34, I.P.C. read with section 4 of the D.P. Act in filing this application under section 439, Cr.P.C. for his release on bail.
3. Learned counsel for the Petitioner submits that this Petitioner being the husband of the deceased has been in custody since 06.01.2021 when other members of the family being arrested in the case are enjoying bail. He further submits that by now only three witnesses from the side of the prosecution has been examined and twenty two more witnesses would in course of time come to depose in the trial as seen from the list given by the prosecution. He further submits that although at the initial stage as the death has taken place on account of severe burn injuries, the case was registered for the offence under section 302, I.P.C., yet after completion of investigation the Petitioner and others have not been set up for trial for commission of offence under section 302, I.P.C. but section 306, I.P.C. stands substituted and accordingly, now they are facing trial for commission of offence under section 498-A/304(B)/306/34, I.P.C. read with section 4 of the D.P. Act. He further submits that here even the

Informant being summoned is avoiding to appear in court and depose for which BW has been issued against her and others which reveals the clear intention of those relations of the deceased to cause harassment to this Petitioner as much as possible. In view of all these above, when there remains no scope on the part of the Petitioner to flee from justice and tamper the evidence, he 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, as the death has taken place on account of receipt of severe burn injuries by the deceased, it is too premature a stage to say that it is she who had set herself ablazed and there was no involvement of any third hand. He, however, on going through the report of the Trial Court does not dispute the position that by now only two witnesses out of the twenty five witnesses cited from the side of the prosecution have been examined and as against some of the prosecution witnesses BWs have been issued. He also does not dispute the position that other co-accused are on bail.

5. Considering the submissions as advanced and on going through the materials as placed; further keeping in view the surrounding circumstances including the factum of detention of the petitioner in custody since 06.01.2021 and tardy progress of trial; while being inclined to reconsider the prayer for bail of this petitioner, it is directed that the petitioner be released on bail in the aforesaid case with such terms and conditions as deemed just and proper by the Court in seisin of the case with further conditions that he will appear in person on each date of posting of the case before the court in seisin of the case without fail and will not threaten or terrorize the prosecution witnesses in any manner.

6. The BLAPL is accordingly disposed of.

Issue urgent certified copy as per rules.

(D. Dash)
Judge