

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.1084 of 2022

Gyanendra Mallik

....

Petitioner

Mr. Bikram Chandra Ghadei, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. G.N. Rout, ASC

CORAM:

MR. JUSTICE D.DASH

ORDER

04.05.2022

Order No.

- 02.
1. This matter is taken up through hybrid arrangement.
 2. This is the successive journey of this petitioner, who is in custody in connection with Puri Sadar P.S. Case No.84 of 2018 corresponding to G.R. Case No.658 of 2018 arising out of S.T. Case No.9/24 of 2019 pending in the Court of the learned Additional District Judge, Puri 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 Petitioners submits that when the wife of the Petitioner has died within a period of seven years of marriage on account of burn injuries; with the general allegation that the Petitioner was demanding dowry and torturing her for non-fulfillment of the same, he has been arrested in the case and is in custody since 09.04.2018. He further submits that despite such long detention of the Petitioner in custody, the trial is yet to complete and few more witnesses are awaiting examination. He, however, submits that the important witnesses cited by the prosecution have already given their evidence in court. It is his submission that although the incident has taken place within a period of seven years of marriage and it is said by witnesses that the Petitioner was demanding dowry and torturing the deceased, which of course would stand for acceptance by the Trial Court at the end, yet the evidence would

reveal that this Petitioner have not set fire at the deceased and the deceased then was alone in the room by bolting the door from inside which all the witnesses have categorically stated. He further submits that the Petitioner being a permanent resident of Puri; there remains no scope on his part to flee from justice and the question of tampering the evidence at this stage does not arise. In view of all these above, he urges for reconsideration of the prayer for grant of bail to this Petitioner on such terms and conditions as deemed just and proper.

4. Learned counsel for the State opposes the move. According to him, the stage is too premature to take a view on the evidence on record as to the culpability of this petitioner being the husband of the deceased and it is not permissible. He, however, does not dispute the position that the Petitioner is in custody since 09.04.2018 and the trial is yet to be concluded. It is also not controverted that the Trial Court has already recorded the evidence of some important witnesses cited by the prosecution.

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 petitioners in custody since 09.04.2018 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 leave the jurisdiction of the court till conclusion of the trial.

6. The BLAPL is accordingly disposed of.

Issue urgent certified copy as per rules.

(D. Dash)
Judge