

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.2483 of 2022

Bikash Nayak @ Bapun

....

Petitioner

Mr. Dharanidhar Nayak, Sr. Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. D.R. Rout, ASC

CORAM:

MR. JUSTICE D.DASH

ORDER

12.05.2022

Order No.

01. 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 Khaira P.S. Case No.63 of 2017 corresponding to C.T. Case No.250 of 2017 arising out of S.T. Case No.256 of 2017 pending in the Court of the learned Sessions Judge, Balasore for offence punishable under sections 498(A)/304(B)/302/34, 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 Senior Counsel for the Petitioner submits that although the Petitioner has by now remained in custody as an under trial prisoner for a period of about six years, the trial has not yet been completed and now few more prosecution witnesses are to be examined. He submits that the fact remains that after necessary observation of this Court while disposing earlier BLAPL No.5872 of 2021 thereafter not a single witness has been produced from the side of the prosecution in the trial. He further submits that the case is based on circumstantial evidence and in the meantime other co-accused persons, who are the members of the family of the Petitioner, have been released on bail. It is submitted that except that the fact that the Petitioner is the husband of the deceased, the circumstances which have been projected against the co-accused persons remain the same against the Petitioner too. 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, it is a case where within a period of seven years of marriage the deceased has died on receiving severe burn injuries. He further submits that the circumstances as those emanate from the statement of the witness when taken together attracts the presumption under section 113-B of the Evidence Act, which prima facie shows the complicity of the Petitioner. He, however, does not dispute the position that the Petitioner is in custody from 15.03.2017 and few prosecution witnesses are yet to be examined in the trial for its completion and that even after the disposal of earlier BLAPL with the observation, there has been no progress in the trial.

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 15.03.2017 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 report before the IIC, Khaira P.S. on every Monday in between 10 am to 02 pm for a period of six months; 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; will not indulge himself in any criminal activity 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