

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.3244 OF 2021

Nalini Behera

.... Petitioner

Mr. S.K. Jena, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. Samaresh Jena, ASC.

CORAM:

MR. JUSTICE D.DASH

ORDER

18.10.2022

Order No.

05.

1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
2. This is the successive journey of the Petitioner in filing this application under Section-439 of the Cr.P.C. who is in custody in connection with Burla P.S. Case No.10 of 2018 corresponding to S.T. Case No.77/12 of 2018 arising out of G.R. Case No.69 of 2018 pending on the file of the learned 1st Addl. Sessions Judge, Sambalpur running for commission of offence under section-302 of the IPC for reconsideration of the prayer for grant of bail to the Petitioner in the above mentioned case.
3. Learned Counsel for the Petitioner submits that on the allegation that the Petitioner has committed murder of Manish Giri by setting ablaze, she being a widow of the age group of 32-35 has been arrested and in custody since 09.01.2018. He further submits that the star witness for the prosecution in support of the fact that it is the Petitioner who had set fire on the body of the deceased is Santosh Banchhor and it is said he had heard the deceased saying about the role of the Petitioner in setting fire at him. He further submits that the prosecution in the case has not yet taken any step to produce that important witness, Santosh Banchhor in the trial for recording on his evidence, and for that reason, the Petitioner having waited for a long

to exercise the liberty as had been granted by this Court vide order dated 03.01.2019 passed on BLAPL No.5489 of 2018 has been compelled to move the Court again. It is also submitted that the materials on record reveals that shortly before the deceased came out of the house, there was a quarrel between the Petitioner and the deceased, when conduct of the Petitioner post the incident has also been stated by the witnesses that she had helped in shifting the deceased to the hospital for treatment. In the above state affairs, in the trial and in view of the long period of detention of the Petitioner who is young widow having two children at home, who need her case when the trial is not expected to be completed so soon; according to him, further detention of the Petitioner till conclusion of the trial would not be in the interest of justice. He, therefore, urges for reconsideration of the prayer for grant of bail to the Petitioner as there remains no scope on her part to flee from justice and the question of tampering the evidence too does not arise.

4. Learned Counsel for the State opposes the move. According to him, that witness, Santosh Banchhor having not yet been examined, it would not be in the interest of justice to release the Petitioner on bail. He however does not dispute the position that the Petitioner is in custody since 09.01.2018.

5. Considering the submissions made and on going through the materials available on record; further keeping in view the surrounding including the period of detention of the Petitioner in custody and for non-examination of the important witness for the prosecution for such a long period as also other factors concerning the Petitioner; 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. she will appear in person before the Court in seisin of the case on each and every date of posting of the case till conclusion of the trial; and
2. will not threaten or terrorize the prosecution witnesses in any manner.

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

6. The BLAPL is accordingly disposed of.

Issue urgent certified copy as per rules.

**(D. Dash),
Judge.**

Narayan

