

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.4408 of 2021

Prasanta Kumar Naik

....

Petitioner

Mr.Niranjana Panda, Advocate

Versus

State of Odisha

....

Opp. Party

Mr.P.K.Mohanty, ASC

CORAM:

JUSTICE SAVITRI RATHO

ORDER

06.01.2022

Order No.

09.

This matter is taken up by hybrid mode.

Heard Mr.Niranjana Panda, learned counsel for the petitioner and Mr.P.K.Mohanty, learned Addl. Standing Counsel.

This is an application under Section 439 of Cr.P.C. for grant of bail to the petitioner-Prasanta Kumar Naik in connection with Banki P.S. Case No.89 of 2021 corresponding to G.R. Case No.107 of 2021 pending in the Court of learned S.D.J.M., Banki for commission of offences punishable under Sections 498 (A)/304 (B)/302/34 of I.P.C. read with Section 4 of the D.P. Act.

The bail application of the petitioner was earlier rejected on 28.10.2021 by the learned Sessions Judge, Cuttack in S.T. Case No.122 of 2021.

The case of the prosecution is that the petitioner agreed to marry the deceased by demanding cash of Rs.50,000/- and out of which Rs.30,000/- has been paid with promise to pay the balance amount after marriage. Due to non-fulfillment of the demand for dowry and non-payment of the balance amount of Rs.20,000/-, the petitioner along with other co-accused were subjecting the deceased to physical and mental cruelty. Though the informant had gone to matrimonial house of the deceased to bring her back but

she refused and on the same day evening he received information that the deceased has committed suicide. Initially the F.I.R. has been registered for commission of offence under Sections 498-A/304-B/302/34 of I.P.C. along with Section 4 of the D.P. Act against the petitioner and his parents-Krupasindhu Naik and Benga Naik, sister-Mamata Naik and nephew-Jatin Naik, Amar Naik and Pintu Naik, charge sheet dated 31.8.2021 has been submitted for commission of offence punishable under Sections 498-A/304-B/306/406/34 of I.P.C. read with Section 4 of the D.P. Act against all of them showing Pintu Naik as an absconder.

Mr. Panda, learned counsel for the petitioner submits that the deceased apparently committed suicide after some dispute with the petitioner and it is not related with demand of dowry a case under Section 304-B/306 IPC is not made out against the petitioner. He further submits that the petitioner is in custody since 01.04.2021 and the other accused persons, namely, Krupasindhu Naik, Benga Naik, Jatin Nayak, Amar Naik and Mamata Naik have been granted anticipatory bail by order dated 23.6.2021 passed in ABLAPL No.6278 of 2021 and that the present petitioner stands on same footing as these accused persons have been granted bail. He further states that no useful purpose will be served by detaining the petitioner in custody as investigation is complete and charge sheet has been submitted.

Learned Addl. Standing Counsel opposes the prayer for bail stating that the opinion regarding the cause of death of deceased had been reserved as ligature mark could not be detected clearly and the query had been made to Medical Officer, Dr. P.Panda and Dr.Sunita Mohanty who have opined that cause of death of the deceased was due to hanging. He places the post mortem

examination report which indicates that no bodily injury was detected and cause of death may be due to asphyxia.

Considering the allegations against the petitioner and the fact that the offence under Section 302 IPC has been deleted from the charge sheet, I am inclined to grant bail to the petitioner.

Let the petitioner-Prasanta Kumar Naik be released on bail on such terms and conditions as may be fixed by the learned Court below in seisin over the matter in the aforesaid case, including the conditions that the petitioner will not threaten or attempt to influence any witnesses or indulge in any criminal activity while on bail and will remain present in Court on each date it is fixed for trial.

The BLAPL is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.

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(Savitri Ratho)
Judge

Bichi