

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL No.5398 of 2022

1.Rakesh Rana
2.Raju Rana

....

Petitioners

Mr.J.K.Panda, Advocate

Versus

State of Odisha

....

Opposite Party

Mr.D.Nayak, AGA

CORAM:
JUSTICE SAVITRI RATHO

Order No.
03.

ORDER
29.11.2022
(Through hybrid mode)

1. I have heard Mr. J.K.Panda, learned counsel for the petitioners and Mr.D.Nayak, learned Additional Government Advocate.
2. This is the third application under section 439 of Cr.P.C. for grant of bail to the petitioners-Rakesh Rana and Raju Rana in connection with Kantamal P.S. Case No.51 of 2020 corresponding to S.T. Case No.43 of 2020, pending in the Court of learned Additional Sessions Judge, Kantamal for commission of offences punishable under Sections 498-A/304-B/34 of I.P.C.
3. The petitioners are the brothers in law of the deceased. The prosecution allegations in case in brief is that petitioners alongwith other accused persons were demanding more dowry of Rs.1.00 lakh for business. The informant had given Rs.40,000/- to Rajkishore Rana- husband of the deceased with assurance that the rest of the amount would be given after arranging it at the end of the year. She was harassed and threatened by her husband for non payment of the

balance amount. The husband of the deceased abused her in obscene languages and threatened that if the amount of Rs.60,000/- was not given, she would be driven out from his house and killed. He tortured her physically and mentally and on 30.04.2020 at about 12.00 P.M. he told the informant that the deceased has consumed poison. She was taken to CHC, Kantamal for treatment but the doctor advised them to take her Sonepur. On the way the deceased stated that the accused persons had administered poison to her forcibly. The informant attended her cremation and heard from villagers that the deceased had been beaten and administered poison forcibly and he lodged FIR.

4. Referring to the order dated 07.04.2022 passed by the learned Additional District & Sessions Judge, Kantamal in Sessions Trial No.43 of 2020, Annexure 5, Mr. J.K.Panda, learned counsel for the petitioner submitted that the petitioners had been granted interim bail vide order dated 22.12.2021 passed in BLAPL No.2609 of 2021 and have not misused their liberty and surrendered in time on 7.4.2022 after expiry of the period of interim bail. So, there is no apprehension that they will abscond or influence witnesses if released on bail. He has further submitted that the petitioners are in custody since 5.5.2020 and out of 20 charge-sheeted witnesses, only nine witnesses have been examined. He has also submitted that the prayer for bail of the petitioners in BLAPL No.7184 of 2020 had been rejected after perusing the statements of witnesses-Harekrushna Rana, Parbati Rana, Bijay Rana and Krushna Chandra Rana recorded under Section 161 of Cr.P.C. These witnesses have in the meanwhile been examined as P.Ws.1, 2, 3 and 4 respectively in the trial and their evidence regarding forcible administration of poison by the present petitioners does not inspire confidence as the informant was present

during the cremation and has lodged FIR on 02.05.2020 which is two days after the occurrence as an afterthought and no injuries were detected on the deceased.

5. Mr. D.Nayak, learned Additional Government Advocate opposes the prayer for bail stating that there are allegations that the petitioners alongwith other co-accused have mentally and physically tortured the deceased on account of non-fulfillment of demand for dowry and Harekrushna Rana informant and the father of the deceased and some other witnesses have stated about the dying declaration of the deceased implicating the petitioners to have forcibly administered poison to her.

6. I have perused the deposition of P.W.1 - Harekrushna Rana who has interalia stated that he lodged FIR after hearing the people of the village that the accused persons and their mother forcibly administered poison to her after beating her. The post mortem examination report does not reveal any injuries on the deceased and cause of death has been opined to be poisoning.

7. Considering the submissions of counsel and the nature of materials available against the petitioners who are the brothers in law of the deceased and the period spent by them in judicial custody, I am inclined to release them on bail, subject to the following conditions :-

- i.) They will not indulge in any criminal activity while on bail.
- ii.) They will not threaten or try to influence prosecution witnesses while on bail.
- iii.) They will appear in the trial court on each date it is fixed for trial.

8. The BLAPL is accordingly allowed.

9. Observations in this order have been made for consideration of the bail application and should not influence the learned trial Court in any manner.

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

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