

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.6318 of 2022

1. Ananda Mohanty

2. Murali Mohanty

.... Petitioners

Mr. P.K. Sahoo, Advocate

-versus-

State of Odisha

.... Opp.Party

Mrs. Susamarani Sahoo,
Addl. Standing Counsel

**CORAM:
JUSTICE S.K. SAHOO**

**ORDER
02.12.2022**

Order No.

02. This matter is taken up through Hybrid Arrangement (Video Conferencing/Physical Mode).

Heard learned counsel for the petitioners and learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with S.T. Case No.10-10 of 2019 arising out of Nuagaon P.S. Case No.51 of 2018 pending in the Court of learned Additional Sessions Judge, Nayagarh for offences punishable under sections 498-A/304-B/302/34 of the Indian Penal Code read with section 4 of the Dowry Prohibition Act.

The petitioners moved an application for bail

before the Court of learned Addl. Sessions Judge, Nayagarh which was rejected on 13.06.2022.

Learned counsel for the petitioners submitted that the petitioner no.1 is the father-in-law and petitioner no.2 is the husband of the deceased Tikina Mohanty @ Tikina Das respectively and they are in judicial custody since 04.09.2018 and they have been charge sheeted under sections 498-A/ 304-B/302/34 of the Indian Penal Code read with section 4 of the Dowry Prohibition Act. Learned counsel further submitted that the petitioner no.1 first approached this Court for bail in BLAPL No.1947 of 2019 which was rejected as per the order dated 12.07.2019 basing on the statements of Jayakrushna Mohanty and Charan Khatua, the eye witnesses to the occurrence but those two witnesses have been examined in the trial Court as P.W.1 and P.W.2 and they have not supported the prosecution case. Learned counsel further submitted that the petitioner no.1 again approached this Court for bail in BLAPL No.7974 of 2020 which was also rejected as per the order dated 23.03.2021 mainly relying on the statement of eye witness Kajal Mohanty (P.W.7), however, it was directed to the learned trial Court to expedite the trial and take steps for examination of the material witnesses at the first instance and liberty was granted to the petitioner no.1 to renew the prayer for bail after examination of the material witnesses in the trial

Court. Learned counsel further submitted that in the meantime, in the trial Court, out of twenty one charge sheet witnesses, thirteen witnesses have been examined and in view of the progress of the trial as well as the period of detention in judicial custody, the bail application of the petitioners may be favourably considered. Learned counsel has filed the Xerox copies of the certified copy of the depositions, which are taken on record.

Perused the status report dated 24.11.2022 submitted by the learned trial Court from which it appears that charge has been framed under sections 498-A/302/304-B/34 of the Indian Penal Code read with section 4 of the D.P. Act on 17.10.2019 and out of twenty one witnesses, thirteen witnesses have been examined.

Learned counsel for the State vehemently opposed the prayer for bail and submitted that Kajal Mohanty, the daughter of the petitioner no.2 and the deceased being examined as P.W.7 has specifically stated about the assault on the deceased by wooden plank by the petitioners and thereafter, there was an attempt to burnt the dead body of the deceased in the backside of the house. Learned counsel for the State also placed the evidence of the doctor (P.W.12), who conducted the post mortem examination, however, she has received instruction that the petitioner no.1 Ananda Mohanty is having no criminal antecedent.

Considering the submissions made by the learned counsel for the respective parties, the age of the petitioner no.1 and the period of detention of the petitioner no.1 in judicial custody, I am inclined to reconsider the prayer for bail and direct the petitioner no.1 to be released on bail.

Let the petitioner no.1 Ananda Mohanty be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper subject to condition that the petitioner no.1 shall appear before the learned trial Court on each date when the case would be posted for trial.

So far as petitioner no.2 Murali Mohanty is concerned, in view of the available materials on record and the nature and gravity of the accusation, while not inclining to release the petitioner no.2 on bail, the learned trial Court shall do well to conclude the recording of evidence of the remaining prosecution witnesses within a period of three months from the date of receipt of the copy of this order and thereafter, take steps for concluding the trial by another three months and if the trial is not concluded within the said period, the petitioner no.2 is at liberty to renew the prayer for bail.

The BLAPL is accordingly disposed of.

A copy of the order be communicated to the learned trial Court immediately.

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

(S.K. Sahoo)
Judge

RKM

