

IN THE HIGH COURT OF ORISSA AT CUTTACK
BLAPL NO.6052 OF 2020

Narayan Sethi

.... ***Petitioner***

Mr. S.K. Jena, Advocate

-versus-

State of Odisha

.... ***Opposite Party***

Mr. Samaresh Jena, ASC.

CORAM:

MR. JUSTICE D.DASH

ORDER

14.10.2022

Order No.

03.

1. This matter is taken up through hybrids arrangement (virtual/ physical) mode.
2. This is the second journey of the Petitioner in filing this application under Section-439 of the Cr.P.C. who is in custody in connection with Jajpur Town P.S. Case No.60 of 2018 corresponding to C.T. Case No.190 of 2018 pending on the file of the learned Addl. Sessions Judge, Jajpur running for commission of offence under section-498-A/302/304-B/406 of the IPC read with section-4 of the D.P. Act 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 the Petitioner being the father-in-law of the deceased having been arrested in the case is in custody since 14.03.2018 and now, the trial is still on, when the co-accused who happens to be the son of the Petitioner and the husband of the deceased is in custody and the other co-accused who is the wife of the Petitioner and mother-in-law of the deceased is on bail. He further submits that the Petitioner is a senior citizen and all these periods his wife having managed the situation, now it is no more possible on her part to continue further in the absence of the Petitioner by her side without his aid and help. It is submitted that when it is stated by the witnesses that the

husband of the deceased (son of this Petitioner) had even demanded dowry shortly before coming home from his work place prior to the incident, the allegations against the Petitioner and his wife run in a general manner that they were torturing and ill-treating the deceased by joining their son. It is also submitted that there is no direct evidence with regard to the role of this Petitioner in causing the burn injury upon the deceased. 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, the witnesses have clearly stated that this Petitioner was ill-treating and torturing the deceased when the husband of the deceased was remaining absent at home. He submits that here when the death has taken place within a short period of marriage, that too on account of burn injuries received by the deceased by virtue of presumption available under Section-113B of the Evidence Act a strong prima facie case stands against the Petitioner. He however, does not dispute the position that the Petitioner is in custody since 14.03.2018 and that the trial is still going on, when the co-accused-husband of the deceased is in custody.

5. Taking into account the submissions made; further keeping in view the surrounding circumstances especially, the period of detention of the Petitioner in custody; 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. he shall 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;
2. shall not threaten or terrorize the prosecution witnesses in any manner; and
3. shall not leave the jurisdiction of the Court in seisin of the case till conclusion of trial.

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

