

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 8627 of 2022

Aswini Biswal

....

Petitioner

Mr. S.K. Bhanjadeo, Advocate

-versus-

State of Orissa

....

Opposite Party

Mr. A. Pradhan, ASC

Mr. J. Sahoo, Advocate

(Informant)

CORAM: JUSTICE V. NARASINGH

ORDER

18.11.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the informant.
3. The petitioner is an accused in connection with G.R. Case No.761 of 2022, pending in the Court of the learned S.D.J.M., Chatrapur, arising out of Chatrapur P.S. Case No.459 of 2022, for alleged commission of offences under Sections 452/306/498(A)/294/341/323/307/354(B)/506/34 of IPC read with Section 4 of D.P. Act.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions Judge, Chatrapur, Ganjam, by order dated 29.08.2022 in the aforementioned case, the present BLAPL has been filed.

5. It is submitted by the learned counsel for the petitioner that the petitioner is in custody since 15.08.2022 and since charge-sheet has been filed on 30.09.2022, further continuance of the petitioner in custody is unwarranted.

6. It is strenuously urged by the learned counsel for the petitioner referring to the FIR that the petitioner is a victim of circumstances and there are no allegations so as to drive home the charge qua the petitioner.

7. It is also submitted that since the petitioner was an acquaintance with the deceased, he has been roped in. Hence, his further continuance in custody is punitive.

8. Learned counsel for the State as well as the informant oppose the prayer for bail.

9. Learned counsel for the State places on record the statement of one Santosh Pradhan who has been cited as charge-sheet witness No.2 and relying on the said statement, learned counsel as well as for the informant submits that the deceased was driven to commit suicide because of the overt act of the present petitioner.

10. Learned counsel for the petitioner submits that there was previous enmity between the deceased and her husband for which another case is pending and it is stated that the deceased was a lady of questionable character and since the petitioner was trying to intervene and settle the matter, he has unnecessarily been implicated.

11. This Court examined the statement of one Kandhuni Pradhan cited as witness No.9, who is the mother-in-law of the deceased and she has categorically stated in her statement that both

the present petitioner as well as her son-husband had assaulted her daughter-in-law and incited her to end her life by consuming poison.

12. It is submitted by the learned counsel for the petitioner that the statement of Kandhuni Pradhan cited as charge-sheet witness cannot be relied upon since she has given prevaricating statements.

13. On perusal of Case Diary, it is seen that though there are two statement of the said witness Kandhuni Pradhan but there is no inconsistency in the statements inasmuch as both the statements were recorded on 16.08.2022 and in the second statement she has stated that the petitioner on 13.08.2022 at about 10.00A.M., in an inebriated stage had come to her house along with her son and tried to outrage the modesty of the deceased.

14. The statement of the brother of the husband of the deceased Santosh Pradhan cited as witness No.2 is also to the same effect, where the overt act committed by the present petitioner has been clearly spelt out.

15. On a conspectus materials on record, this Court is **not inclined** to entertain this bail application since this Court is of the considered opinion that because of the overt act(s) of the present petitioner the deceased was driven to commit suicide.

16. Accordingly, the BLAPL stands rejected.

(V. NARASINGH)
Judge

Ayesha