

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.7299 of 2020

&

BLAPL No.6620 of 2020

Gurudhan Harijan @ Bibhar

....

Petitioner

Mr. J.N. Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. D.R. Parida, ASC

In BLAPL No.6620 of 2020

Sindhu Majhi

....

Petitioner

Mr. Devashis Panda, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. D.R. Parida, ASC

CORAM:

MR. JUSTICE D.DASH

ORDER
21.03.2022

Order No.

06. 1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. Since both the bail applications arise out of Bisamkatak P.S. Case No.72 of 2018, those have been taken up together for hearing and their disposal by this common order.

3. This is the second journey of the petitioners, who are in custody in connection with Bissamkatak P.S. Case No.72 of 2018 corresponding to C.T. Case No.08 of 2019 pending in the court of the learned Additional Sessions Judge, Gunupur (Circuit at Bissamcuttack) running for the alleged commission of offence under sections 498(A)/494/302/34, I.P.C. read with section 4 of the D.P. Act in filing this application under section 439, Cr.P.C. for their release on bail.

4. Learned counsel for the Petitioners submits that on the allegation that these Petitioners having forced the deceased to take the poisonous drinks have committed her murder, they are in custody since 04.09.2018. He further submits that when the entire prosecution case is founded upon the allegation that these Petitioners forced the deceased to take that drinks containing poisonous substance; the post mortem report is silent with regard to any such external injury and not even a scratch has been detected on the face or the buccal cavity. He, of course, submits that here the prosecution relies upon the dying declaration said to have been recorded by the Tahasildar wherein the deceased has implicated these Petitioners to have forced the deceased to take that poisonous drink. In this connection, he further submits that in view of the long prevailing misunderstanding and dispute between the parties, the possibilities of false implication and thereby attempt to give a colour of murder to a case of commission of suicide are not all together ruled out. He submits that despite of long detention of the Petitioner in custody the trial has just reached midway

and its completion is not expected to be so soon. It is submitted that Petitioners-Gurudhan having been released on interim bail has surrendered in time. In that view of the matter when the Petitioners are permanent residents of the District of Kalahandi and there remains no scope on their part to flee from justice and the question of tampering the evidence does not arise, he urges for reconsideration of the prayer for grant of bail to these Petitioners on such terms and conditions as deemed just and proper.

5. Learned counsel for the State opposes the move. According to him, it is too early stage to take a view as regards the acceptability of the dying declaration, which at present stands as the strong piece of evidence and that alone may be enough to fasten the guilt upon the Petitioners. He, however, does not dispute that the trial by now has reached midway and states to have not received any instruction as to misuse of the liberty by the Petitioner, Gurudhan, while on bail.

6. Considering the submissions made: further keeping in view the materials on records as those stand against the petitioners with other surrounding circumstances as also the period of detention of the petitioners in custody and on going through the order passed by the learned Additional Sessions Judge; in the absence of any such impediment; while being inclined to reconsider the prayer for bail of these petitioners, it is directed that the petitioners be released on bail in the aforesaid case with such terms and conditions as deemed just

and proper by the court in seisin of the case with further conditions that they will not leave the jurisdiction of the District of Kalahandi, will not threaten or terrorize the prosecution witnesses and will appear in person before the court in seisin of the case on each date of posting of the case till conclusion of the trial.

7. Both the BLAPLs are accordingly disposed of.
6. Issue urgent certified copy as per rules.

Himansu

