

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8108 of 2021

Jala @ Jalandra Swain and others ***Petitioners***
Mr. D.N. Pattanaik, Advocate
-versus-

State of Odisha ***Opposite Party***
Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
28.02.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners as well as learned counsel for the State. Perused the F.I.R., case diary, statement of the witnesses and other relevant documents on record.
3. This is an application under Section 439 of the Criminal Procedure Code.
4. The Petitioners are accused in G.R. Case No.863 of 2021 arising out of Berhampur Sadar P.S. Case No.163 of 2021 pending in the court of learned S.D.J.M., Berhampur for commission of offence punishable under Sections 498-A/302/304-B/506/34, I.P.C. read with Section 4 of the D.P. Act. Subsequently, charge-sheet has been submitted under Sections 498-A/506/304-B/306/406/34, I.P.C. read with Section 4 of the D.P. Act.
5. The fact of the case, in a nutshell, is that one Laxmi Patra had lodged an F.I.R. against the accused persons before the local police alleging therein that the daughter of the informant have been married one Mithun Swain, S/o-Jala Swain for last two years. One male child

was born out of their wedlock. Apart from that it is also alleged that her in-laws family members have been torturing/harassing her mentally and physically by demanding more dowry for which her daughter being afraid of the situation left her in-laws house. In the meanwhile, on 26.05.2021 at about 10.30 P.M. her daughter informed over telephone stating that her in-laws family members were assaulting and trying to kill her. Just after this information, the informant's family went to her daughter's house and found her daughter dead.

In view of the above facts and circumstances, written complaint was lodged and registered as Berhampur Sadar P.S. Case No.163 of 2021 on 27.05.2021 at about 11.00 A.M. for commission of alleged offences under Sections 498-A/302/304-B/506/34, I.P.C. read with Section 4 of the D.P. Act corresponding to G.R. Case No.863 of 2021 now pending in the court of the learned S.D.J.M., Berhampur.

6. It is submitted by learned counsel for the Petitioners that the Petitioners are father-in-law, mother-in-law and brother-in-law of the deceased respectively and they are in custody since 27.05.2021. Further, it is submitted that investigation of the case is over and charge-sheet has been submitted in the case. On the basis of post-mortem report, he also submits that the doctor has given final opinion that the cause of death is suicidal hanging. Further, it is submitted that there is no specific allegation against the Petitioners to have played any specific role in the alleged occurrence.

7. It is further submitted by learned counsel for the Petitioners that co-accused persons, who are sister-in-laws of the deceased have been released on anticipatory bail by this Court on similar allegations in ABLAPL No.12203 of 2021 by order dated 11.10.2021

8. Learned counsel for the State, on the other hand, submits that there are allegations of dowry torture against the entire family members. As per post-mortem examination report, Doctor has given

final opinion. As such, learned counsel for the State vehemently opposes the prayer for bail of the Petitioners.

9. Having heard learned counsel for the parties, considering the fact that the Petitioners are in-laws of the deceased and the fact that the husband of the deceased is in custody as well as role of the Petitioners and keeping in view the period of custodial detention of the Petitioners, I am inclined to release the Petitioners on bail.

10. Let the Petitioners be released on bail in the aforesaid case on furnishing a bail bond of Rs.30,000/- (rupees thirty thousand) each with two local solvent sureties each for the like amount to the satisfaction of the learned Court in seisin over the matter subject to following the conditions:-

- I. Petitioners shall not misuse the liberty given to them by this order;
- II. They shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever;
- III. They shall not make any default in attending the court during trial on each date; and
- IV. They shall not leave the jurisdiction of the trial court without specific permission and keep on informing their address and phone number, in the event any change thereto.

Violation of any of the terms and conditions shall entail cancellation of bail.

11. It is open for the court in seisin over the matter to impose other conditions may deem just and proper.

12. The Bail Application is accordingly disposed of.

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

