

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8312 of 2021

Jasoda Malik @ Ghuni

.... ***Petitioner***
Mr. M. Panda, Advocate

-versus-

State of Odisha

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

09.03.2022

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner and learned Additional Standing for the State. Perused the case record, F.I.R. as well as statement of the witnesses.
 3. This is an application under Section 439 of the Cr.P.C. for bail arising out of Soro PS. Case No.398 of 2020 corresponding to S.T. Case No.88 of 2021 pending in the court of learned Sessions Judge, Balasore for the alleged commission of offences under Sections 302/201/34, I.P.C.
 4. Shorning the unnecessary details the facts of the case leading to filing of the present bail application are that the Informant-Shri Prasanta Kumar Malik has lodged the present F.I.R. before the Soro Police Station, Balssore on 26.11.2020 at 8.10 A.M. alleging therein that on 25.11.2020 the informant's father, the deceased Maheswar Malik had been outside for washing his hands and legs and as he did not return home till late night, the informant along with his mother

and other family members started searching for his father but they could not trace out him. On the next day, i.e. 26.11.2020 at around 5.00 A.M. the informant's mother and aunt found his father lying dead in a pond behind their cultivated land. Upon seeing bloodstains in front of the gate of his uncle the co-accused Purna Chandra Malik (Petitioner's husband), the informant suspected that due to previous family disputes his uncle i.e. the co-accused Purna Chandra Malik and Gagan Malik had murdered his father and thrown his body in the pond.

5. It is submitted by learned counsel for the Petitioner that the Petitioner is in custody since 27.11.2020 and the investigation has been concluded and charge-sheet has been submitted for the offence under Section 302/201/34, I.P.C. The Petitioner moved an application for bail before the court below, which was rejected by order dated 02.03.2021. He further submits that the Principal accused, namely, Purna Chandra and Gagan are the brothers of the deceased. On the date of the alleged occurrence, the principal accused Purna Chandra assaulted the deceased by means of a crowbar and Gagan assaulted by means of a lathi as a result the deceased sustained bleeding injury fell down and thereafter the both the brothers Purna and Gagan took away the dead body of the deceased for hiding. The present petitioner is the wife of Purna Chandra, who washed out the bloodstain lying at the spot. Further he submits that so far as the present petitioner is concerned, she had no specific role in the alleged commission of crime. In such view of the matter, learned counsel for the Petitioner submits that the Petitioner is a resident of the locality and as such, there is no chance of absconding from the hands of justice and further in the event the Petitioner released on bail, he shall cooperate with the trial and appear before the trial court on each and every date in

the trial.

7. Learned counsel for the State, on the other hand, relying upon the statement of some of the witnesses submits that although there are eye witnesses to the occurrence, but the facts of the present case in the alleged crime cannot be ruled out. He further submits that there are circumstances, which give indication that the present Petitioner had role in the alleged crime. He further expresses his apprehension in the event the Petitioner will be released on bail, she may not be appeared in the trial court as a result of which the trial may not be concluded expeditiously.

8. Learned counsel for the Petitioner further submits that another co-accused person, namely, Gagan Malik, who was arrested, has been released on bail by this Court vide order dated 06.09.2021 passed in BLAPL No.2429 of 2021. He further submits that the present Petitioner stands on better footing than the co-accused, namely, Gagan Malik and as such, prays for release of the Petitioner on bail by applying the principle of parity.

9. Having heard learned counsel for the parties, considering the custodial detention of the Petitioner as well as nature of accusation against the present Petitioner, Petitioner is a lady and the circumstantial evidences relied upon by the prosecution in this case, I am inclined to release the petitioner on bail.

10. Let the Petitioner be released on bail in the above noted case, subject to furnishing a bail bond of Rs.50,000/-(rupees fifty thousand) 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. Petitioner shall not be involved in any offence of similar nature;

- II. she shall not tamper with the prosecution evidence or try to threaten or influence the witnesses in any manner whatsoever; and
- III. she shall not make any default in attending the court during trial on each date.

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.

Jagabandhu

