

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9317 of 2022

Gajita @ Rasmita Garnayak

....

Petitioner

Mr. B.S. Das, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. S. Mishra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

19.10.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State. Perused the F.I.R., case diary, the statement of the witnesses and other relevant documents on record.
4. This is an application under Section 439 of the Criminal Procedure Code.
5. The petitioner is an accused in S.T. Case No.58 of 2022 corresponding to C.T. Case No.512 of 2022 arising out of Barkot P.S. No.185 of 2022 pending in the court of learned Sessions Judge, Deogarh for commission of offence punishable under Sections 498-A/ 304-B/302/34, I.P.C. read with Section 4 of the D.P. Act.
6. It is submitted by learned counsel for the petitioner that the petitioner is the sister-in-law of the deceased and she is in custody since 21.04.2022. It is further submitted by learned counsel for the

petitioner that there is omnibus in allegation in the matrimonial dispute. Further, it is submitted by learned counsel for the petitioner that another co-accused, who happens to be husband of the present petitioner, has already been released on bail by this Court in BLAPL No.4730 of 2022 vide order dated 30.08.2022. It is also submitted that all the allegations is against the husband of the deceased.

7. Further it is submitted by learned counsel for the petitioner that earlier the petitioner has also filed another bail application, which was withdrawn with liberty to renew her prayer after commitment of the case. Learned counsel for the petitioner submits that after commitment of the case, the petitioner has moved an application for bail before the learned court below which was also rejected by the learned court below vide order dated 19.09.2022 and the present successive application has been preferred by the petitioner.

8. Mr. B.S. Das, learned counsel for the petitioner submits that there is no eye witness to the alleged occurrence and the allegation is omnibus in nature in matrimonial dispute. On such grounds, the present petitioner has been falsely implicated in the present case and the husband of the deceased is in custody. Further, it is submitted by learned counsel for the petitioner that in such type of cases, suspension always points on the husband of the deceased. It is further contended by him that the present petitioner and her husband has been entangled in this case on the ground of harassment, torture and demand of dowry. As per statement of the neighbours, there is harassment, ill-treatment, torture meted out to the deceased by the petitioner. There is no specific material directly to implicate the petitioner in this case.

9. Learned counsel for the State, on the other hand, opposes the prayer for bail of the petitioner and submits that on the confessional statement made by the husband of the deceased for which the present petitioner entangled in this case and he prays for rejection of the bail application of the petitioner. However, learned counsel for the State also submits that in the event the petitioner released on bail, she might threaten / influence the prosecution witnesses which shall affect the trial. Further, he submits that in the event this Court is inclined to release the petitioner on bail, some stringent terms and conditions may be imposed.

10. Having heard the learned counsels for the parties, considering the nature of allegation, materials are available on record and the period of custodial detention of the petitioner, petitioner is a lady and the co-accused released on bail, it is directed that let the petitioner be released on bail on furnishing a bail bond of Rs.30,000/- (rupees thirty thousand) with two local solvent sureties each for the like amount to the satisfaction of the learned court in seisin over the matter.

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.

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

(A.K. Mohapatra)
Judge