

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8553 of 2021

Smt. Punimani Kabat

....

Petitioner

Mr. Arun Kumar Budhia, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. K.K. Nayak, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

13.04.2022

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioner for bail in connection with Berhampur P.S. Case No.69 of 2020, corresponding to S.T. Case No.39 of 2021 (101 of 2021), pending in the file of learned 3rd Additional Sessions Judge, Balesore, for commission of alleged offences under Sections 498-A/304-B/302/109/34 of I.P.C.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.
4. The prosecution case, in short, is that the daughter of the Informant, namely, Parbati Malik had married to the son of the Petitioner, namely, Antaryami Kabat as per the Hindu rites and

custom 14 years back. At the time of marriage, cash of Rs.10,000/-, gold ornaments and other house hold articles were given. It is alleged that after five days of marriage all the accused persons had been torturing her for demand of Rs.20,000/- and she was physically assaulted by them. In the year 2018, there was settlement between the families and both the deceased and her husband started living together. It is alleged that on 09.10.2020 the Informant got information that his daughter is serious and she has been attempted to kill by pouring petrol over her and during that time, when two years baby came to her she also sustained burn injury and both are under treatment.

5. Learned counsel for the Petitioners submits that Petitioner is languishing in jail custody since the date of her arrest, i.e. 18.10.2020. The police after completion of investigation submitted charge-sheet against the Petitioner. It is submitted that the dying declaration of the victim has been recorded before the Magistrate. On perusal of the same, it is revealed that the victim submitted that her husband had poured kerosene on her and set her into fire. But there was no whispering about the involvement of the present in-law member. There is also no other material to implicate the present Petitioner, who is aged about 62 years and was in custody since long. It is further submitted that since the Petitioner is a local resident of the area, there is no chance of evading the trial of the case in the event of her release on bail.

6. Learned counsel for the State vehemently objects the prayer for bail of the Petitioner on the ground that the victim had lodged FIR alleging torture by the in-law member (present petitioner) under Section 498-A of I.P.C. and Section 4 of D.P. Act. Therefore, learned counsel for the State submits that the role of the Present Petitioner cannot be ruled out in the present case. He accordingly prays for rejection of her bail application.

7. Having regard to the facts and circumstances of the case, considering the nature and gravity of offences alleged and the period of detention of the Petitioner and looking to the age of the Petitioner, this Court is inclined to release the Petitioner on bail on furnishing a bail bond of Rs.30,000/- (Rupees Thirty thousand) with one solvent surety each for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

- (i) She shall appear before the trial court on each and every date as fixed by the court;
- (ii) She shall appear before the I.O. on every fortnight of the month, preferably on Sunday at 10 A.M. to 1.00 P.M. and report to the police;
- (iii) She shall not tamper with the prosecution evidence;
- (iv) She shall not influence or threaten any prosecution witness and cooperate in the investigation;

(v) She shall not leave the jurisdiction of the court without special permission from the court; and

(vi) Violation of any of the above conditions shall entail cancellation of the bail.

8. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioner and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioner has no criminal antecedents.

9. With the above direction, the BLAPL is accordingly allowed.

10. Issue urgent certified copy of this order on proper application.

