

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.12924 of 2022

Udasini Sahoo & another ***Petitioners***
Mr. R.K. Mahanta, Advocate

-versus-

State of Odisha ***Opp. Party***
Mr. M.K Mohanty, ASC.
Mr. K.C Tripathy, Adv for the Informant

CORAM:
JUSTICE CHITTARANJAN DASH

Order No.

ORDER
28.11.2022

05. 1. Heard learned counsel for the Petitioners, the State and Shri Kartik Chandra Tripathy the learned counsel appearing on behalf of the informant.
2. By means of this application the Petitioners seek grant of application U/s. 438 Cr.P.C apprehending arrest for their alleged involvement in the offence U/s. 498-A/302/304-B/34 of IPC & Section-4 of D.P Act in connection with Jhumpura P.S Case No. 116 of 2022 corresponding to G.R Case No. 344 of 2022 pending on the files of the learned S.D.J.M., Champua.
3. It is submitted by the learned counsel for the Petitioners that the nature and cause of death of the deceased cannot be attributed to the present Petitioners in as much as the Petitioners had a tendency to commit suicide and the statement of the witnesses recorded U/s. 161 Cr.P.C does not attributed anything against the present

Petitioners which is omnibus in nature the further submission of the learned counsel for the Petitioners are that the suicidal note referred by the counsel for the State as finds place in the case diary reveals the deceased to have attributed the cause of her death on herself according to the learned counsel the present Petitioner is a government employee and a lady and as such her pre arrest bail may be considered.

4. The learned counsel for the State as well as the Informant vehemently opposed the bail application contending that the overrule facts and circumstances leading to the death of the deceased as directed nexus with the harassment caused to her by her in-laws including the present Petitioners who remained the centre stage to the issue pointed out by the deceased in her suicidal note.

5. In view of submissions of the parties and perusal of the documents which includes the statement of the witnesses, the FIR and the documents referred to by the learned State counsel on the direction of this Court more particularly the suicidal note reveals a series of incident contributing the overt act of the present Petitioners made her to remain in depression and she failed to reconcile with the situation and circumstances created in the in-laws place. The nature and cause of death even though directly cannot be attributed to the present Petitioner, the circumstance of death and the gravity does not impel the mind of the Court to consider the prayer of the Petitioner for grant of anticipatory bail. However, it is directed that if she so chooses and surrenders before the learned court in seisin over the matter within three weeks hence, and moves for bail, the learned court below shall dispose of her application on

its own merit. Keeping in view the aforesaid facts and dispose of the same in the first hour strictly on the basis of the materials available on record on its own merit.

6. In case of rejection of the bail application by the learned court, the Petitioners may move for bail before the higher forum in the second hour of the same day. In that event, the higher forum shall consider and dispose of the bail application of the Petitioners on the same day on its own merit.

7. It is made clear that the learned court below shall not be influenced by any of the observations of this Court made herein above in any manner and shall no way presume this direction to be for grant of bail in affirmative.

8. Court has to apply its own wisdom in dealing with the application for bail.

9. Case diary be made available to the learned courts below as soon as possible to facilitate disposal of the bail application of the Petitioners on the same day.

10. The ABLAPL is disposed of.

(Chittaranjan Dash)
Judge

B.K Sahoo