

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8833 of 2021

Kunti Durga

....

Petitioner

Mr. S.N. Mishra(4), Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. P.K. Pattanaik, A.G.A.

CORAM:

JUSTICE G. SATAPATHY

ORDER

28.09.2022

Order No.

- 08.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application U/S. 439 of Cr.P.C. by the petitioner for grant of bail in connection with C.T. Case No. 378 of 2021 arising out of Bhawanipatna Sadar P.S. Case No.123 of 2021 pending in the Court of learned S.D.J.M., Bhawanipatna for commission of offences punishable under Sections 498-A/302/304-B/34 of IPC and U/S. 4 of Dowry Prohibition Act, 1961, on the allegation of committing dowry death and murder of her daughter-in-law as well as subjecting the deceased to torture and cruelty for demand of dowry prior to her death.
 3. In the course of hearing of the bail application, learned counsel for the petitioner submits that the petitioner is aged about 50 years and she is inside jail custody since 11.04.2021 and she being a lady is squarely covered under the proviso to Section 437 of Cr.P.C. and the

petitioner by said provision may be released on bail. Learned counsel for the petitioner by placing statement of witnesses Baidi Durga and Gauri Durga submits that these witnesses are the neighbours of the deceased and they have stated before police that the deceased has committed suicide by self immolating herself. Learned counsel for the petitioner under these submissions prays to enlarge the petitioner on bail.

4. On contrary, learned counsel for the State submits that there is enough material against the petitioner and also there is an oral dying declaration against the petitioner for which the bail application of the petitioner should not be considered. It is accordingly prayed by learned counsel for the State to reject the bail application of the petitioner.

5. Considering the nature and gravity of accusations as well as her status as mother-in-law of the deceased vis-à-vis her advance age of 50years and the factum of the permanent residence of the petitioner and taking into consideration the proviso appended to Section 437 of the Cr.P.C. and keeping in view the personal liberty of an individual with utmost care and priority and the pre trial detention of the petitioner since 11.04.2021, this Court considers the bail application of the petitioner leniently by especially taking into consideration the special proviso to Sec. 437 of Cr.P.C.

6. Hence, the prayer for the bail of the petitioner stands allowed and the petitioner is allowed to go on bail on furnishing bail bonds of Rs.25,000/- with two solvent sureties each for the like amount to the satisfaction of the learned Court in seisin of the case on such terms and conditions as deem fit and proper with further conditions that the

petitioner shall attend the trial Court on each date of trial without fail unless his attendance is dispensed with and that he shall not leave the jurisdiction of the trial Court without prior permission till disposal of the case.

7. Accordingly, the BLAPL stands disposed of.
8. Issue urgent certified copy of the order as per Rules.

(G. Satapathy)
Judge

Subhasmita

