

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9475 of 2021

Tango @ Lingaraj Perei

....

Petitioner

Md. G. Madani, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. S.S. Mohapatra, Additional Standing Counsel

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

12.01.2022

Order
No.

01. 1. This matter is taken up through video conferencing mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. This is an application under Section 439 of Cr.P.C for grant of bail to the petitioner in connection with Bhadrak Rural P.S. Case No.297 of 2021 corresponding to G.R. Case No.1847 of 2021 arising out of S.T. No.89 of 2021 pending in the file of learned Additional District and Sessions Judge, Bhadrak on the grounds stated therein.
4. Perused the FIR i.e. Annexure-1 and impugned order dated 11.10.2021 as at Annexure-2 besides a copy of charge sheet enclosed to the bail application and PM report in respect of the victim.
5. Gone through the contents of the FIR.
6. Learned counsel for the petitioner submits that the present accused is the husband of the deceased and he is in custody since 12.07.2021 and in the meantime, on completion of investigation,

charge sheet stands filed which is in the month of September, 2021 and in so far as the cause of death of the victim is concerned. It is due to Asphyxia arising out of hanging as also revealed from a copy of the PM report enclosed to the bail application, which means, the death was suicidal in nature and taking into account the nature of allegation, which is common against all the accused persons, and that the petitioner has remained in judicial custody for about five months, he should be enlarged on bail with any conditions. Learned counsel for the State on the other hand submits that the case diary is not yet received and but then considering the charge sheet and the allegations made against the petitioner, prima facie, a case is made out against him.

7. It is made to reveal from the materials on record that the informant lodged the FIR with the allegation that the petitioner and in-laws of her daughter subjected her to mental and physical torture and there was demand of Rs.1 lac. Initially, case under Section 302 IPC was registered after the FIR was lodged but then, charge sheet was filed under Section 306 IPC along with other offences including Section 304-B IPC. The marriage of the deceased with the petitioner had taken place about two years back. As informed to this Court, the petitioner and victim were blessed with a son who is at present one year old. The cash demand of Rs.1 lac is made to reveal from the FIR. It is made to understand that an amount of Rs.60,000/- was paid to the family of the petitioner by the informant. The allegation is that the victim was being tortured for non-payment of rest amount of Rs.40,000/-. In any case, the allegation of mental and physical torture appears to have been made against all the accused persons. In other words, the allegation is omnibus in nature. The petitioner has remained in custody since 12.07.2021 and as earlier mentioned, charge sheet was filed in the month of September, 2021.

8. Considering the above facts and submissions made by the learned counsel appearing for the respective parties and taking into account the fact that the victim had a suicidal of death for which charge sheet was filed under Section 302 IPC and regard being had to the omnibus nature of allegation as revealed from the FIR, the Court is of the considered view that the accused husband should be released on bail with conditions and accordingly, it is ordered.

9. In the result, the petitioner is allowed to go on bail on furnishing a bail bond of Rs.40,000/-(rupees forty thousand) with one solvent surety for the like amount to the satisfaction of the learned court below in seisin over the matter, who shall impose such other conditions, as deemed just and proper, in the facts and circumstances.

10. The BLAPL is disposed of.

11. As the restrictions due to the COVID-19 situation are continuing, learned counsel for the parties may utilize a soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed, vide Court's Notice No.4587, dated 25 March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(R.K. Pattanaik)
Judge