

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9507 of 2021

Nilambar Baitharu

....

Petitioner

Mr. D. Panda, Advocate

-Versus-

State of Odisha

....

Opposite Party

Mr. A. N. Pradhan, 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 M. Rampur P.S. Case No.110 of 2021 corresponding to C.T. Case No.218 of 2021 pending in the file of learned J.M.F.C. M. Rampur.
4. Perused the impugned order as at Annexure-1.
5. Learned counsel for the petitioner submits that there is no evidence to suggest forcible administration of poison to the victim and that apart, the statement of child witness cannot be entirely believed, who claimed to be present near the spot and witnessed the occurrence and considering the fact that the accused is in judicial custody since the date of arrest, he should be released on bail with any conditions which is strongly objected to by the learned counsel for the State contending that the death of the deceased is on

account of poisoning and the occurrence has been witnessed by the child which should not be disbelieved out rightly.

6. Admittedly, the investigation is over as charge sheet was filed, in the meantime. The petitioner is the husband of the deceased who alleged to have committed her murder. The child present near the spot claimed to have witnessed the assault and forcible administration of poison to the victim by the petitioner which is challenged by the learned counsel for the petitioner contending that there is no injury found on the person of the deceased confirming it. But then, the very presence of the child witness and his version clearly contradict the claim of the learned counsel for the petitioner.

7. Taking into account materials on record and death of the deceased stated to be homicidal and case being registered under Section 498-A and 302 IPC, the Court is not inclined to grant bail to the petitioner and accordingly, it is ordered.

8. In the result, the application under Section 439 Cr.P.C. stands rejected.

9. 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

