

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.9855 of 2021

Prasant @ Prasant Kumar Palei & Others ***Petitioners***

Mr. S.P. Mishra, Advocate

-versus-

State of Odisha ***Opposite Party***
Miss.S.Mishra, ASC

CORAM:
MR. JUSTICE D.DASH

ORDER
19.01.2022

Order No.

01. 1. This matter is taken up by video conferencing mode.
2. The Petitioners being in custody in connection with Baideswar P.S. Case No.81 of 2021 corresponding to G.R. Case No.322 of 2021 on the file of learned S.D.J.M, Banki, running for commission of offence under section 498-A/304(B)/302/34 of the IPC read with section 4 of the D.P. Act, have filed this application under section 439 of the Cr.P.C. for their release on bail.
3. Learned counsel for the petitioners submits that the Petitioners being the members of the family of the husband of the deceased have been implicated in the case with the general allegation that they were demanding dowry and torturing the deceased for non-fulfillment of the same since the deceased has committed suicide. He further submits that the prosecution case that the Petitioners had killed the deceased stands negated from

the postmortem report. He also submits that the allegations against the Petitioners with regard to demand and torture upon the deceased are all false and omnibus, without citing any particular instance, assigning any specific role to these Petitioners therein. He submits that the investigation of the case is complete and there remains no further possibility of unearthing of any other important material/s. With all these above, as there remains no scope on the part of Petitioners to flee from justice and tamper the evidence, according to him, further detention of the Petitioners in custody till conclusion of the trial would serve no useful purpose. He therefore, urges for grant of bail to the Petitioners.

4. Learned counsel for the State opposes the move. According to him, on the face of the allegations as to exertion of cruelty by these petitioners from the time of marriage; the death having taken place within a period of seven years of marriage that to not under normal circumstance; with the aid of available presumption under section 113A/ 113B of the Evidence Act, the culpability of the Petitioners in view of their relationship stands.

5. Taking into account the submissions made; further keeping in view the materials on records as those stand against the Petitioners with other surrounding circumstances including the period of detention of the Petitioners in custody and on going through the order passed by the learned Sessions Judge; in the absence of any such impediment; it is directed that the

Petitioners be released on bail in the aforesaid case on such terms and conditions as deemed just and proper by the court in seisin of the case with further condition that they will not threaten or terrorize the prosecution witnesses in any manner.

6. The BLAPL is accordingly disposed of.

As the restrictions due to resurgence of COVID-19 situation are continuing, learned Counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587 dated 25th 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.

**(D. Dash),
Judge.**

Basu