

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10477 of 2021

Sk. Riyaz

.... ***Petitioner***
Mr. S.K.Rout, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. S.K. Nayak, AGA

**CORAM:
MR. JUSTICE D.DASH**

ORDER
11.08.2022

Order No.

02. 1. This matter is taken up through hybrid arrangement (virtual/physical mode).
2. This is the successive journey of this petitioner, who is in custody in connection with Jagatpur P.S. Case No.151 of 2019 corresponding to S.T. Case No.100 of 2021 pending in the Court of the learned 3rd Additional Sessions Judge, Cuttack for offence punishable under sections 498(A), 304-B, 302, 406, I.P.C. read with section 4 of the D.P. Act in filing this application under section 439, Cr.P.C. for his release on bail.
3. Learned counsel for the Petitioner submits that the Petitioner although is in custody since 21.04.2019, the trial has not yet even crossed its midway as out of thirty-one prosecution witnesses only eleven have been examined so far. He further submits that on every adjourned date of trial despite steps being taken by the Trial Court, the prosecution witnesses are not turning up. It is also his submission that except this Petitioner other co-accused persons are on bail and for such long detention of the Petitioner in custody, his family members, who are depending on him are suffering a lot. He also submits that under the

circumstance, the view taken by the Trial Court that there remains likelihood of the Petitioner to influence the prosecution witnesses in case of his release on bail is no more acceptable. In view of all these above, he urges for reconsideration of the prayer for grant of bail to this Petitioner.

4. Learned counsel for the State opposes the move. According to him, the Petitioner being the husband of the deceased when in the case the death has taken place on account of severe burn injuries received by the deceased within a period of seven years of marriage with the available material that the Petitioner was torturing the deceased for non-fulfillment of the demand of dowry; prima facie case against the Petitioner stands as the presumption available under section 113-B of the Evidence Act is not shown to have been rebutted through any other surrounding circumstances.

5. Considering the submissions made and further keeping in view the surrounding circumstances as also the period of detention of the Petitioner in custody, it is directed that the Petitioner be released on interim bail till 28.10.2022 on such terms and conditions as the learned court in seisin of the case deems just and proper with further conditions that he will positively surrender on 29.10.2022; shall appear in person before the court in seisin of the case on the date fixed during the interim bail period; shall not indulge himself in any criminal activity and will not threaten or terrorize the prosecution witnesses in any manner.

6. The BLAPL is accordingly disposed of.

Issue urgent certified copy as per rules.

(D. Dash)
Judge