

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.10943 of 2021

Hrusikesh Sahu

.... ***Petitioner***
M/s.D.Panda, Sr. Advocate

-versus-

State of Orissa

.... ***Opp. Party***
M/s.S.N.Das, A.S.C.

CORAM:

JUSTICE G. SATAPATHY

ORDER

08.09.2022

Order No.

- 06.
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 Padmapur P.S. Case No.9 of 2020 corresponding to C.T. Case No.30 of 2020 pending in the Court of learned Addl. Sessions Judge, Gunupur for commission of offence punishable U/Ss. 498(A)/304(B)/302/34 of I.P.C. read with Section 4 of D.P. Act on the allegation of committing murder of the deceased along with other co-accused persons and subjecting the deceased to torture and cruelty prior to her death.
 3. Mr.D.Panda, learned Senior Counsel appearing for the petitioner forcefully submits that the offence under Section 304-B *per se* is not made out against the petitioner as the marriage of the petitioner with the deceased was solemnized in the year 2011, which is more than seven years and there is no direct evidence available against the petitioner for commission of any offence. It is further submitted by him that all the allegations levelled against the petitioner are hearsay in nature and there is no iota of evidence available against the petitioner for commission of any offence. Learned Senior Counsel also by placing the statements of informant and one witness, who is the neighbor of the deceased, submits that no one had seen the accused-petitioner committing the crime nor there

is statement of any of the witness by which the petitioner can be reasonably connected with the crime and the circumstances available on record do not form any chain of events to establish the guilt of the petitioner. It is also further submitted by the learned Senior Counsel that co-accused persons against whom similar allegations are levelled had already been released on bail and all the allegations found against the petitioner in the F.I.R. and the statement of witnesses are omnibus in nature. Learned Senior Counsel by placing the post mortem report of the deceased submits that the deceased had sustained some lacerated wounds on her body and there is allegation against the petitioner for killing the deceased by means of an axe but the corresponding lacerated injuries as stated in the post mortem report are very much improbable by the use of axe since no incised wounds were found on the person of the deceased. It is also submitted by learned Senior Counsel that the so called eye witnesses who are the children of the deceased, have neither been examined by the police nor have their statements been recorded U/S 164 Cr.P.C. and in the meantime, charge sheet has already been submitted in this case and therefore, no primfacie case is made out against the petitioner. Learned Senior Counsel under the above submissions emphatically urges this Court to grant bail to the petitioner.

4. On the contrary, Mr.S.N.Das, learned counsel for the State submits that the petitioner being the husband of the deceased stands on a different footing with that of co-accused persons released on bail, especially when the allegation of killing the deceased by means of axe is appearing against the petitioner and since there being a strong primfacie case found against the petitioner for committing murder of the deceased by using such weapon of offence i.e. axe, he(petitioner) shall not be released on bail.

5. Gone through the allegations brought against the petitioner upon the hearing the parties, there appears little doubt about the status of the petitioner as husband of the deceased. A careful perusal of statement of some witnesses examined in this case by the police would go to indicate that the main allegation of committing murder of the deceased is against the present petitioner. The statement of the witnesses also indicates that

the dead body of the deceased was lying with pool of blood in the house of the petitioner and the axe stained with blood was also found nearby the dead body. The post mortem report of the deceased discloses five deep lacerated cut wounds on the dead body of the deceased and the doctor in his opinion has stated that the injuries on the deceased were possible by the seized weapon of offence i.e. axe and the injuries are sufficient to cause death of the deceased. Further the police has submitted charge sheet in this case by showing the present petitioner as absconder and the petitioner was arrested subsequently and the allegations levelled against the petitioner does not place him in similar footing with that of the co-accused persons released on bail.

6. In view of the nature and gravity of the allegations made against the petitioner and the manner of commission of crime i.e. brutal murder of the deceased and the weapon used in the commission of such crime and the corresponding number of injuries as found in the post mortem report of the deceased coupled with facts narrated in the previous paragraph, this Court does not consider it proper to enlarge the petitioner on bail. Accordingly, the prayer for bail stands rejected.

7. Accordingly, the BLAPL stands disposed of.

8. Urgent certified copy of the order be granted on proper application.

(G. Satapathy)
Judge