

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.10812 OF 2021

Jagabanduu Moharana & Another ***Petitioners***
Mr. D. Panda, Advocate

-versus-

State of Odisha ***Opposite Party***
Mr. S.K. Nayak, AGA.

CORAM:
MR. JUSTICE D.DASH

ORDER
24.01.2022

Order No.

01. 1. This matter is taken up by video conferencing mode.
2. The Petitioners being in custody in connection with Nihalprasad P.S. Case No.210 of 2021 corresponding to G.R. Case No.451 of 2021 on the file of learned J.M.F.C., Gondia running for alleged commission of offence under section 498-A/304-B/302/506/34 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 here the Petitioners being the husband and mother-in-law of the deceased have been implicated in the case with the general allegations that they were demanding dowry and torturing the deceased for non-fulfillment of the same when daughter-in-law of Petitioner No.1 and wife of the Petitioner No.2 has

committed suicide by hanging herself as has been opined by the doctor conducting postmortem examination when also no such other external injury suggestive of torture or ill-treatment before the incident has been noticed. He also submits that the allegations against the Petitioners with regard to demand and torture upon the deceased are all false and omnibus, without citation of any particular instance, assigning any specific role to these Petitioners therein. It is contended that there remains no scope on the part of Petitioners to flee from justice and tamper the evidence. According to him under the circumstances, 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 this Petitioners from the time of marriage; the death having taken place within a period of seven years of marriage and not under normal circumstance; presumption available under section 113A/ 113B of the Evidence Act stands drawn as to the complicity of the Petitioners.

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 Addl. 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 conditions that:-

- 1) they will not threaten or terrorize the prosecution witnesses in any manner;
- 2) Petitioner No.2 will appear in person before the Court in seisin of the Case on each date of posting of the case without fail.

6. The BLAPL is accordingly disposed of.

7. 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.**

Narayan