

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL NO.11095 OF 2021

Kamakala Nayak@ Kamala Nayak ***Petitioners***
Mr. Mahesh Das, Advocate

-versus-

State of Odisha ***Opposite Party***
Mr. Karunakar Das, ASC.

CORAM:
MR. JUSTICE D.DASH

ORDER
25.01.2022

Order No.

01. 1. This matter is taken up by video conferencing mode.
2. The Petitioner being in custody in connection with Daringbadi P.S. Case No.116 of 2016 corresponding to G.R. Case No.130 of 2016 (P.F.) on the file of learned J.M.F.C., Daringbadi running for alleged commission of offence under sections 498-A/304-B/302/34 of the IPC, has filed this application under section 439 of the Cr.P.C. for her release on bail.
3. Learned counsel for the Petitioner submits that the Petitioner being the mother-in-law of the deceased has been implicated in the case in view of the death of the deceased when the death of the deceased has not taken place under normal circumstances and it is said that the death has resulted due to chocking of wind pipe by some external force. He

further submits that the father-in-law of the deceased having been arrested in the case has been acquitted in the meantime and the husband of the deceased having been found guilty of causing the death of his wife has been convicted. He further submits that in view of the presence of the son of the Petitioner at the relevant time of the incident at home, this Petitioner's role in the matter of causing the death of the deceased in that way is not inferable. It is also stated that the allegation of demand of dowry and torture upon the deceased runs in a general manner without citing any particular incident nor assigning any specific role to this Petitioner therein. In view of all these above, he urges for grant of bail to this Petitioner.

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 Petitioner 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 Petitioner in custody and on going through the order passed by the learned Addl. District & Sessions Judge; in the absence of any such impediment; it is directed that the Petitioner 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.

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.***

Himansu

