

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.12289 of 2022

ParoMuska

....
Petitioner
Mr. Debasnan Das, Advocate

-Versus-

State of Odisha

....
Opposite e Party
Mr. Sitikanta Mishra, ASC

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
21.12.2022

Order No.

01.

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. Instant petition under Section 439 Cr.P.C. is filed by the petitioner for bail in connection with Laxmipur P.S. Case No.35 of 2006 corresponding to G.R. Case No.92 of 2006 pending in the file of learned J.M.F.C., Laxmipur for commission of alleged offences 302 & 34 IPC on the grounds stated therein.
3. Perused a copy of FIR at Annexure-1 and impugned order as at Annexure-2, whereby, an application for bail moved by the petitioner was rejected by the learned Sessions court.
4. Mr. Das, learned counsel for the petitioner submits that other co-accused faced trial vis-a-vis the alleged incident and admittedly they have been convicted under Section 302 IPC. It is further submitted that the petitioner is a co-accused and she is in custody from March, 2022 and has been alleged of having instigated the other accused and provoked them to carry out the

assault. Mr. Das, learned counsel for the petitioner submits that since she has not assaulted the deceased and other co-accused persons have carried it out and moreover, she has been in jail custody since March, 2022 should be released on bail with conditions.

5. Mr. Mishra, learned counsel for the State opposed the release of the petitioner on bail. It is submitted that the case diary is necessary to ascertain the nature of allegation against the petitioner and the role, she has played during the incident. It is made to appear from the chargesheet which is produced before this Court today that on account of death of the petitioner's husband the deceased was attacked for being involved in sorcery. The alleged incident has happened in the year 2006. The petitioner is no doubt would have to face the trial and till now the case is not committed and pending in the file of learned J.M.F.C., Laxmipur. Having regard to the submissions and circumstances leading to the alleged incident alleging witchcraft observed by the deceased and the fact that the petitioner did not participate in the assault but being present at the spot only instigated others, she may be allowed to go on bail as in the meantime nearly 15 years have gone by since the time of occurrence.

6. Accordingly, it is ordered.

7. In the result, BLAPL stands allowed.

8. Consequently, it is directed that the petitioner be released on bail in Laxmipur P.S. Case No.35 of 2006 corresponding to G.R. Case No.92 of 2006 pending in the file of learned J.M.F.C. Laxmipur on her furnishing a bail bond of Rs.40,000/- with one solvent surety for the like amount to the satisfaction of the learned court below which shall impose such other conditions as would be deemed just and proper in the facts and circumstances of the case.

9. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

U.K.Sahoo

