

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**BLAPL NO. 11189 OF 2021**

***Debasish Barik***

....

***Petitioner***

*Mr.Satya Naryan Mishra 4, Adv.*

-versus-

***State of Odisha .***

....

***Opposite Party***

*Mr.Karunakar Das, ASC*

**CORAM:**

**MR. JUSTICE S.K. PANIGRAHI**

**ORDER**

**15.02.2022**

**Order No.**

02.

1. This matter is taken up by hybrid mode.
2. Heard, learned counsel for the petitioner and learned counsel for the State.
3. The petitioner being in custody in connection with Basudevpur P.S. Case No. 176 of 2017 2019 corresponding to G.R Case No. 352 of 2017 pending in the court of the learned J.M.F.C, Basudevpur, registered for the alleged commission of offenses under Sections 498-A/506/304-B/306/34 of the Indian Penal Code, has filed this application under Section 439 of CrPC for his release on bail.
4. The brief fact of the prosecution case is that the deceased got married to the present petitioner on 08.06.2016. However, after a few days of marriage, the in-laws of the deceased started torturing her mentally and physically for the demand of dowry. When the father of the deceased, who is the informant, failed to meet the demands of dowry, the petitioner and his family threatened him of killing his daughter. On 22.07.2017,

he received the information of the admission of his daughter to a hospital. On not finding his daughter in the hospital, the informant rushed to the matrimonial home of the deceased where he found her dead.

5. Learned Counsel for the petitioner submits that the prosecution allegations leveled against the present petitioner are false and baseless. Further, the deceased was mentally ill and her death was an accident. There is no prima facie evidence to indicate the guilt of the petitioner. To bring home charges of abetment of the suicide, it has to establish:

- (i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and
- (ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above.

The Madras High Court in **Manikandan v. State**<sup>1</sup> relying on a judgment of the same High in **Rajamanar v. State Rep. By the Inspector of Police, Sewapet Police Station, Thirrupvallur District**<sup>2</sup> observed that:

“if a lover commits suicide due to love failure, if a student commits suicide because of his poor performance in the examination, a client commits suicide because of his case is dismissed, the lady,

---

<sup>1</sup> MLJ CRL 240 (2016) Madras High Court

<sup>2</sup> CrI. O.P.No.8320/2014 dated 3.4.2014

examiner, lawyer respectively cannot be held to have abetted the commission of suicide. Sometimes, the decision to commit suicide might be taken by the victim himself/herself, unaccompanied by any act or instigation etc on the part of the accused.”

Furthermore, the Kerala High Court in **Cyriac v. The S.I. of Police**<sup>3</sup> succinctly held that

“A fatal impulse or an ill-gated thought of the deceased, however, unfortunate and touchy it may be, cannot unfortunately, touch the issue. Those cannot fray the fabric of the provision contained in Section 306 of IPC. In short, it is not what the deceased ‘felt’ but what the accused ‘intended’ by his act which is more important in this context. Of course, the deceased’s frail psychology which forced him to suicide also may become relevant, but it is only after establishing the requisite intention of accused.”

7. Having heard learned counsel for the parties and in view of the above precedents cited herein above, it is directed that the petitioner be released on bail in the aforesaid case with some stringent terms and conditions as deemed just and proper by the learned court in seisin over the matter with further conditions that:-

- i) he shall appear before the court below on each date of posting of the case;
- ii) he shall not tamper with the prosecution evidence in any manner and
- iii) he shall not involve himself in any criminal activities while on bail.

---

<sup>3</sup> ILR 2005 (3) Kerala 646

Violation of any of the aforesaid conditions, shall entitle cancellation of bail.

8. Accordingly, the BLAPL stands disposed of being allowed.

9. Issue urgent certified copy of the order as per Rules.



LB