

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 11202 of 2021

Chandan Naik ... **Petitioner**
Mr. S.R. Mohapatra, Advocate
- Versus -

State of Odisha ... **Opposite Party**
Mr. S.K. Mishra,
Addl. Standing Counsel

BLAPL No. 11211 of 2021

BLAPL No. 11212 of 2021

Agadhu Naik @ Happy **Petitioners**
Manas Naik
Mr. A.K. Das-1, Advocate

- Versus -
State of Odisha **Opposite Party**
Mr. S.K. Mishra,
Addl. Standing Counsel

CORAM:
JUSTICE SASHIKANTA MISHRA

ORDER
15.02.2022

Order No.
2.

1. These matters are taken up through hybrid mode.
2. This common order shall dispose of all the three bail applications as they are arising out of the same GR and P.S. Case.
3. Heard Mr. S.R. Mohapatra, learned counsel for the petitioner in BLAPL No. 11202 of 2021 and Mr. A.K. Das-1, learned counsel for the petitioners in BLAPL Nos. 11211 and 11212 of 2021 and Mr. S.K. Mishra, learned Addl. Standing Counsel for the State.

4. The petitioners are in custody since 11.09.2021 in connection with Motanga P.S. Case No.180 of 2021 corresponding to G.R. Case No.1069 of 2021 pending before the learned S.D.J.M., Dhenkanal for the alleged commission of offence under Sections 498-A/306/34 of IPC read with Sections 66-E/67 of Information Technology Act.

5. The prosecution allegation is that one Chandan Naik (petitioner in BLAPL No. 11202 of 2021) had married the deceased- Basumati Naik, but suspected her of having an illicit relationship with another man, for which he tortured her mentally and physically. Subsequently, the deceased developed an affair with one Saroj Naik and used to keep contact with him through the voice and video calling. It is further alleged that the said Saroj Naik kept some half-naked screenshots of the deceased, which he sent to Manas Naik (petitioner in BLAPL No. 11212 of 2021), who in turn forwarded it to Agadhu Naik @ Happy (petitioner in BLAPL No. 11211 of 2021). On the date of occurrence at about midnight, Agadhu Naik appeared near the house of the deceased and sent whatsapp messages asking her to meet him at the backside of their house but when the deceased refused, he sent one of her half naked photo to her. The husband of the deceased saw the messages and asked his wife about it but as he did not get any satisfactory reply he went to the backside of the house and found both Agadhu Naik and Manas Naik. On seeing him Manas Naik fled away, but Agadhu Naik was caught by Chandan Naik, whereupon he confessed about the illicit relationship between Saroj and the deceased. Hearing this,

Chandan was annoyed and abused the deceased in obscene language and also assaulted her by means of kicks and slaps. Thereafter the deceased locked herself in her room and opened the door after a long time and fell ill. Chandan informed the family members of the deceased asking them to take her to their house but without waiting for their arrival, he shifted her to his father-in-law's village and in spite of repeated request, he did not take her to the hospital. The family members of the deceased shifted her to DHH, Angul, from where she was referred to SCB Medical College and Hospital, Cuttack but while undergoing treatment, she died on 13.07.2021.

6. It is submitted by Mr. S.R. Mohapatra that the fact that the husband got annoyed after knowing about the illicit relationship of his wife is nothing but a natural reaction and therefore, even if he may have abused and assaulted his wife, it cannot be treated as an act done with any intention to kill her. It is further submitted that the very fact that the husband took the deceased to her parental home reveals his innocence.

7. Mr. A.K. Das-1 submits that the petitioners- Agadhu Naik @ Happy and Manas Naik have no role to play in the matter and had received and forwarded the messages, which they had received from Saroj Naik.

8. Mr. S.K. Mishra, learned Addl. Standing Counsel has opposed the prayer for bail by submitting that all the three accused persons are equally liable for the offence and that the materials on record clearly reveal that because of their actions, the deceased was led to commit suicide.

9. The materials on record prima facie suggest the involvement of all the three accused persons in the occurrence. As regards accused, Chandan Naik, what exactly his intention was to shift his wife to her parental house during the night and not to hospital for treatment cannot be ascertained. In so far as accused Agadhu Naik @ Happy and accused Manas Naik are concerned, there are adequate materials to show that they had conjointly committed certain acts which could have caused mental instability or depression in the deceased so as to contemplate ending her own life.

10. In view of the above and having regard to the fact that the trial of the case is yet to begin, this Court is not inclined to allow the prayer for bail.

11. The bail applications, therefore, stand rejected.

(Sashikanta Mishra)
Judge

