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(2024) 07 OHC CK 0038

Orissa High Court

Case No: Bail Application No.5240 Of 2024

Banamali Bhoi — APPELLANT

Vs

State Of Odisha — RESPONDENT

Date of Decision: July 1, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 34, 294, 307, 323, 498A, 506
- Dowry Prohibition Act, 1961 - Section 4

Hon'ble Judges: V. Narasingh, J

Bench: Single Bench

Advocate: R.N. Panda, T.K. Praharaj

Final Decision: Dismissed

Judgement

V. Narasingh, J

1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The Petitioner is an accused in connection with S.T. Case No.112 of 2022, pending on the file of learned 2nd Addl. Sessions Judge, Cuttack arising

out of Niali P.S. Case No.10 of 2022, for commission of alleged offences under Sections 498-A/323/307/294/506/34 IPC and Section 4 of the D.P

Act.

3. Learned counsel, on instruction, submits that except the present BLAPL, no other bail application of the Petitioner relating to the aforementioned

P.S. case is pending in any other Court.

4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned 2nd Addl. Sessions Judge, Cuttack by order dated

10.05.2024 in the aforementioned case, the present BLAPL has been filed.

5. This is the third journey of the Petitioner to this Court. Earlier bail application of the Petitioner was rejected by a Coordinate Bench of this Court by

order dated 4.1.2023 in BLAPL No.10817 of 2022 and the subsequent bail application of the Petitioner in BLAPL No.5712 of 2023 was rejected by

order dated 13. 09.2023. This bail application is listed before this Court on account of the standing order in terms of the direction of the Apex Court in

the case of Pradhani Jani vrs. State of Odisha, (2024) 4 SCC 451.

6. It is submitted by the learned counsel that in the meanwhile four prosecution witnesses have been examined and they have turned hostile. Relying

on the statement of P.W.4 the neighbor which indicates that the deceased out of anger poured kerosene on herself and ultimately succumbed to the

injuries, it is submitted that further continuance of the Petitioner in custody is not warranted.

7. It is the further submission that P.W.4 was examined on 18.1.2023 and thereafter no witnesses have been examined and the son of the Petitioner

and the deceased is about 4 years old and there is no one to take care of his son, for which the young boy is facing hardship.

8. Learned counsel for the State opposes the prayer for bail referring to the statement of four witnesses examined so far and submits that they have

corroborated the prosecution allegation in material particulars and even otherwise during currency of trial it is not open for this Court to make a clinical

examination of the evidence on record.

9. This Court once again perused the dying declaration recorded by the doctor who is yet to be examined.

10. On consideration of the same, this Court is not inclined to entertain this bail application.

11. Accordingly, BLAPL stands rejected.

12. Learned Court in seisin is requested to expedite the trial since the Petitioner is in custody since 14. 1.2022.

13. It is needless to state that the observations made here are only for the purpose of bail application and ought not to be construed as expressing any

opinion regarding complicity of the Petitioner which has to be adjudicated in the impending trial on its own merit..

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