

(2023) 05 OHC CK 0108

In the Orissa High Court

Case No : Bail Application No.114 Of 2023

Ahalya @ Kalyani Khuntia

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 05-05-2023

Acts Referred:

Code of Criminal Procedure, 1973 — Section 437(1), 439
Indian Penal Code, 1860 — Section 201, 302

Citation : (2023) 05 OHC CK 0108

Hon'ble Judges : S.K. Sahoo, J

Bench : Single Bench

Advocate : A. Tripathy, Priyabrata Tripathy

Final Decision : Disposed Of

Judgement

S.K. Sahoo, J

This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned counsel for the State.

This is an application under section 439 of Cr.P.C. in connection with S.T. Case No.24/196 of 2019 arising out of Khandapada P.S. Case No.258 of 2018 pending in the Court of learned Additional Sessions Judge, Nayagarh for offences punishable under sections 302/201 of the Indian Penal Code.

The petitioner moved an application for bail before the Court of learned Additional Sessions Judge, Nayagarh, which was rejected on 06.12.2022.

Learned counsel for the petitioner submitted that the petitioner was taken into judicial custody on 11.04.2019 and she was granted interim bail twice, once for one month and the second time for three months and after availing the interim bail period, she surrendered at right time. Learned counsel further submitted that in the trial Court, out of twenty seven charge sheet witnesses, six witnesses

have been examined and the materials adduced during trial indicate that the petitioner along with other village ladies formed one 8Arnapurna Finance Group and the petitioner had taken some loan from that group and for non-payment of the loan amount, there was quarrel between the petitioner and her husband and the petitioner used to show her displeasure for not paying timely loan installment. It is submitted by the learned counsel for the petitioner that it is the prosecution case that the petitioner not only threw her two children to the village pond but also herself jumped into it for which she sustained injury and hospitalized for about two weeks. Learned counsel further submitted that there was mental pressure on the petitioner for which she took this extreme step to kill herself as well as her two children and in the background of the case and when witnesses have been examined and the petitioner has been detained for a long period and it will take some more time to conclude the trial, the bail application of the petitioner may be favourably reconsidered keeping in view the proviso to section 437(1) Cr.P.C. and the fact that she has never misutilized the terms and conditions of the interim bail order.

Learned counsel for the State opposed the prayer for bail and placed the evidence of the witnesses examined in the trial Court, which are annexed to the bail application.

Considering the submissions made by the learned counsel for the respective parties, the nature of accusation against the petitioner, the background of the case, the nature of evidence adduced during the trial of the case, the conduct of the petitioner in complying with the earlier interim bail orders, the slow progress of the trial, the period of detention of the petitioner in judicial custody and keeping in view the proviso to section 437(1) of Cr.P.C., I am inclined to reconsider the prayer for bail and direct the petitioner to be released on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.50,000.00 (rupees fifty thousand) with two local solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper subject to conditions that the petitioner shall appear before the learned trial Court on each date when the case would be posted for trial and he shall not try to tamper with the evidence.

Violation of any terms and conditions shall entail cancellation of bail.

The BLAPL is accordingly disposed of.

Issue urgent certified copy as per Rules.

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