

(2024) 03 OHC CK 0159
In the Orissa High Court
Case No : Bail Application No. 12419 Of 2023

Kamalakanta Jena

APPELLANT

Vs

State Of Odisha

RESPONDENT

Date of Decision : 19-03-2024

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 302, 304B, 498A
Dowry Prohibition Act, 1961 — Section 4

Citation : (2024) 03 OHC CK 0159

Hon'ble Judges : Sashikanta Mishra, J

Bench : Single Bench

Advocate : S.K.Nayak, S.K.Mishra

Final Decision : Dismissed

Judgement

Sashikanta Mishra, J

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned Addl. Standing Counsel for the State.
3. The Petitioner is in custody since 16.5.2023 in connection with Bansada P.S. Case No.154/2023 corresponding to G.R. Case No.340/2023 pending in the Court of learned J.M.F.C., Chandbali for the alleged commission of the offence under Sections 498-A/304-B/302/34 I.P.C. and Section 4 of the D.P. Act.
4. The prosecution case is that the sister of the informant had married the Petitioner about 6 years prior to the occurrence. A male child was born out of the wedlock. The deceased was subjected to physical and mental cruelty by her husband and in laws in connection with demand for further dowry. That apart, she was subjected to ridicule and abuse because of her alleged extra marital relationship. She ultimately committed suicide by hanging herself from a nearby tree.

5. Learned counsel for the Petitioner has referred to the statements of some witnesses examined by the I.O. to submit that the allegations are false, baseless and there may have been some dissensions in the family because of the extra marital relationship of the deceased herself. In any case, she had committed suicide on her own volition.

6. Learned State counsel has produced the case diary and also referred to the statement of some villagers examined by the I.O. during investigation. He submits that all of them have stated in clear terms about the cruelty meted out to the deceased by her husband and in-laws and in any case there is evidence to show that the deceased was abused in obscene language shortly prior to her death.

7. This Court after hearing learned counsel for the parties and on perusal of the case diary finds that there is evidence to show that the Petitioner also joined his parents in abusing the deceased prior to the occurrence by contacting her telephonically. He is also said to have abused the deceased as she had requested for help from her neighbours for treatment of her child. There is thus a prima facie case available against the Petitioner.

8. Under such circumstances, I am not inclined to entertain the prayer for bail. The bail application stands rejected. It shall be open to the Petitioner to renew his prayer after examination of the material witnesses during trial.

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