
(2014) 03 OHC CK 0025
In the Orissa High Court
Case No : BLAPL No. 43 of 2014

Prafulla Beura

APPELLANT

Vs

state

RESPONDENT

Date of Decision : 11-03-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 304(B), 498-A

Citation : (2014) 03 OHC CK 0025

Hon'ble Judges : S. Pujahari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. It appears that the petitioner in this case being in custody in G.R.. Case No. 1505 of 2013 arising out of Olatpur P.S. Case 87 of 2013 pending in the court of learned JMFC(R), Cuttack has come to this Court for his release on bail. The offence alleged against the petitioner is punishable under Sections 498-A/304(B)/302 of the I.P.C. read with section 4 of the D.P. Act.
3. Learned counsel for the petitioner submits that in this case no offence u/s 304(B)/302, I.P.C. prima-facie is made out, inasmuch as the materials available on record it would go to show that the petitioner's marriage with the deceased was solemnized more than seven years before and there is also no material to show that the petitioner had done the deceased to death. The allegation that the petitioner had meted the deceased with cruelty before her death appears to be omnibus in nature. Investigation has been completed and charge sheet has been filed. The petitioner has no chance of abscondence or tampering the prosecution evidence, therefore he may be released on bail, submits the counsel for the petitioner.
4. Learned counsel for the State opposes the prayer for bail, but fairly submits that there is no material to show that the death of the deceased occurred within

seven years of marriage and the petitioner was present when the deceased caught fire. However, as the petitioner had a strong motive to kill and he had earlier made an attempt to kill the deceased as disclosed from the statements of the witnesses and torturing the deceased on different occasions for no fulfillment his demand of dowry and there is no material to show that the deceased died of an accidental burn, therefore prima-facie material is there to show that it is the petitioner none other to have authored the death of the deceased. Hence, he should not be released on bail, submits the counsel for the State.

5. Regard being had to the facts and submissions especially the nature of accusation, character of evidence appearing against the petitioner, prima-facie there being no material on record to show that the petitioner was present when the deceased caught fire and sustained burn injuries, which contributed to her death and death occurred not within seven years of marriage, there being no material on record to show that the petitioner is person of criminal antecedent and above all the fact that hardly any material being there to suggest the fact that he is likely to flee from justice or tamper with the prosecution evidence, if enlarged on bail, I am of the view that petitioner deserves to be released on bail.

6. Hence, let the petitioner be released on bail in the aforesaid case on his furnishing bail bond of Rs. 20,000/- (Rupees twenty thousand) with two solvent sureties each for the like amount to the satisfaction of the court in seisin over the matter.

7. The bail application stands disposed of being allowed.

Issue urgent certified copy as per rules.