

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.459 of 2022

Nira @ Nirupama Malpik and others ***Petitioners***

Mr. G.K. Mohanty, Advocate

-versus-

State of Odisha ***Opp. Party***
Mr. P.C. Das. A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

26.07.2022

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the petitioners and learned Additional Standing Counsel for the State.
 3. This is an application under Section 438, Cr.P.C. filed by the petitioners for anticipatory bail.
 4. The petitioners are seeking pre-arrest bail in connection with G.R. Case No.653 of 2021, Aul P.S. Case No.320 of 2021 pending in the court of learned J.M.F.C., Aul for commission of offence punishable under Section 498-A/302/34, I.P.C. read with Section 4 of the D.P. Act and subsequently, charge-sheeted under Section 306, I.P.C.
 5. It is submitted by learned counsel for the petitioners that although initially the case was registered under Section 302, I.P.C., subsequently, charge-sheeted under Section 306, I.P.C. It is further submitted that the victim committed suicide by hanging herself and that the in-laws are not made any mental harassment to the victim.
 6. However, considering the facts and circumstances and the entirety of the case and the fact of the case, I am not inclined to grant

anticipatory bail to the petitioner no.1-Nira@ Nirupama Malik and petitioner no.2-Pana @ Mamuni Malik. However, it is directed that in the event the the petitioner no.1-Nira@ Nirupama Malik and petitioner no.2-Pana @ Mamuni Malik surrender before the learned court in seisin over the matter in the aforesaid case within a period of three weeks from today, aforesaid the petitioner no.1-Nira@ Nirupama Malik and petitioner no.2-Pana @ Mamuni Malik shall be released on bail on such terms and conditions as the learned Magistrate may deem just and proper.

7. However, on the submission of the learned counsel, the petitioner no.3-Hemanta Kumar Malik is given liberty to surrender before the court in seisin over the matter in the aforesaid case in the first hour within 21 working days hence and move for bail. On such event, the learned Magistrate shall consider her application for bail in the first hour strictly on the basis of materials on record. In case of rejection of the bail applications, the petitioner no.3-Hemanta Kumar Malik may move for bail before the higher forum in the second hour. On such event, the higher forum shall consider and dispose of the bail application of the petitioner no.3-Hemanta Kumar Malik on the same day strictly on the basis of the materials on record by maintaining the principles of parity, if applicable.

8. Case Diary be made available to the concerned courts. Records be transmitted to the higher forum at the cost of the petitioner, if applied for.

9. Accordingly, the ABLAPL is disposed of.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge

