

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.711 of 2022

Manash Kumar Sahu @ Milu Sahu Petitioner

-versus-

State of Odisha Opposite Party

CORAM: JUSTICE S. PUJAHARI

ORDER

03.02.2022

Order

No.

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1. This matter is taken up through virtual mode.
2. The Petitioner apprehending his arrest in Tarava P.S. Case No.270 of 2021 registered for alleged commission of offence punishable under Sections 341, 323, 294, 506 read with Section 34 of the I.P.C., has filed this petition for his release on pre-arrest bail. However, subsequently the case is turned to Sections 3(1)(r)(s)/3(2)(va) of the S.C. & S.T. (PoA) Act.
3. Heard the learned counsel for the Petitioner and the learned counsel for the State.
4. As it appears, the Petitioner along with others allegedly assaulted the Informant- Junior Engineer for non-preparation of bill of the works contract executed and payment of the bill amount. Petitioner has not been named in the F.I.R. However, subsequently as the

Petitioner was named and the Informant-Junior Engineer being belonging to Scheduled Caste, he is indicted in the aforesaid case for the offence alleged.

5. Mr. Satyabrata Panda, learned counsel appearing for the Petitioner submits that the case does not come under the S.C. & S.T. (PoA) Act as there was neither any caste aspersion nor the Petitioner knowing him to be member of Scheduled Caste made assault and humiliated him. Further, the allegation is totally false against the Petitioner. Hence, considering the same, notwithstanding the prohibition under Section 18 of the S.C. & S.T. (PoA) Act, the Petitioner deserves to be released on pre-arrest bail.

6. However, learned counsel for the State has made objection to the prayer for pre-arrest bail of the Petitioner on the ground that the Informant being a member of Scheduled Caste and the Petitioner being neither belonging to Scheduled Caste nor Scheduled Tribe, the avert act of the Petitioner attracts the penal provision as stated above under the S.C. & S.T. (PoA) Act. Hence, Section 18 of the S.C. & S.T. (PoA) Act prohibits to entertain the prayer for pre-arrest bail.

7. There is no dispute that the Informant belongs to the Scheduled Caste category has lodged the report and the Petitioner does not belong to either Scheduled Caste or Scheduled Tribe. However,

offence was not prima facie not committed by the Petitioner and others, taking note of his caste consideration.

8. Hence, considering the aforesaid facts and submissions made, this Court is of the view that prima facie no offence under the S.C. & S.T. (PoA) Act is made out against the Petitioner and, as such, this Court is of the view that the prayer for pre-arrest bail is maintainable, notwithstanding the submissions made.

9. Therefore, this Court, taking note of the facts and submissions made, circumstances in which the offence was committed, maximum punishment provided on conviction, coupled with the fact of release of the co-accused, directs that in the event of arrest of the Petitioner in connection with the aforesaid case, he be released on bail by the Officer effecting arrest on such terms and conditions as deemed just and proper including the condition that the Petitioner shall cooperate with the investigation.

10. However, this order should not be construed as an expression with regard to the case under S.C. & S.T. (PoA) Act is not made out at all inasmuch as the aforesaid is a prima facie view taken for the purpose of bail.

11. The ABLAPL is, accordingly, disposed of being allowed.

12. As restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout copy of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021 and Court's Office order circulated vide Memo Nos.514 & 515 dated 7th January, 2022.

DA

