

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.2032 of 2022

1. Rudra Dandasena
2. Dhoba Dandasena
3. Kunti Dandasena **Petitioners**

Mr. A. Mishra, Advocate

-versus-

State of Odisha **Opp. Party**

Mr. S.S. Pradhan,
Addl. Government Advocate

CORAM:
JUSTICE S.K. SAHOO

ORDER
15.03.2022

Order No.

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

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

This is an application under section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in connection with Special G.R. Case No.02 of 2022 arising out of Dungripali P.S. Case No.26 of 2022 pending in the Court of learned Addl. Sessions Judge -cum- Special Judge, Sonapur for alleged commission of offences under sections 450/376(2)(n)/376(3)/294/323/34 of the Indian Penal Code read with section 6 of the POCSO Act.

Perused the F.I.R.

Learned counsel for the petitioners submitted that the main allegation is against co-accused Balaram Dandasena and the petitioners being his family members have been falsely entangled in the case on the accusation that they did not allow the victim to enter into the house after knowing from the victim that the main accused kept physical relationship with her and made her pregnant. He further submitted that the accusation of assault on the victim made against the petitioners is getting no corroboration from her medical examination report and therefore, the anticipatory bail application of the petitioners may be favourably considered.

Learned counsel for the State, on the other hand, opposed the prayer for anticipatory bail and placed the 164 Cr.P.C. statement of the victim. He also placed the injury report of the victim which indicates that she has sustained no external injury. Learned counsel for the State relied on sub-section (4) of section 438 of Cr.P.C., which indicates that the provision of anticipatory bail shall not apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 of the Indian Penal Code and some other specific offences.

Since there is no such accusation against the petitioners for commission of such offences and the allegation against them may at best constitute

offences under sections 294/323 of the Indian Penal Code, particularly when there is no medical evidence to corroborate the victim's statement about the assault on her by the petitioners, I am inclined to release the petitioners on anticipatory bail and accordingly, this Court directs that in the event of arrest of the petitioners in connection with the aforesaid case, they shall be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) each with two sureties each for the like amount to the satisfaction of the arresting officer with further conditions that they shall make themselves available for interrogation by the I.O. as and when required and they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Officer.

Violation of any of the above conditions shall entail cancellation of bail.

The ABLAPL is accordingly disposed of.

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

(S.K. Sahoo)
Judge