

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.7886 of 2022

Susanta Kumar Sahu and others ***Petitioners***

Mr. S. Pr. Dash, Advocate

-versus-

State of Odisha and another ***Opp. Parties***

Mr. S. Mishra, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

22.07.2022

Order No.

01. 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 I.C.C. Case No.181 of 2015 pending in the court of learned J.M.F.C., Soro for commission of offence punishable under Sections 498-A/302/304-B/34, I.P.C.
5. It is submitted by learned counsel for the petitioner that initially the case was registered against the petitioners for alleged commission of offences punishable under Sections 498-A/304-B/34, I.P.C. read with Section 4 of the D.P. Act. Thereafter, the petitioner surrendered before the court below and they were released on bail by

the learned Sessions Judge. Subsequently, charge-sheet was filed under Sections 498-A/406/34, I.P.C. read with Section 4 of the D.P. Act. Further, cognizance was also taken under the aforesaid Sections. However, being aggrieved by the filing of charge-sheet under the aforesaid sections, the petitioners filed protest petition, which was registered as complaint case under Sections 498-A/302/304-B/34, I.P.C. read with Section 4 of the D.P. Act. It is further submitted that earlier the petitioners had approached this Court by filing an application under Section 482, Cr.P.C. for quashing of the complaint case, however, this Court vide order dated 06.05.2022 passed order in CRLMC No.5594 of 2015 disposed of the application by directing for clubbing of both the cases arising out of the self-same transaction in view of the provision in Section 210(2), Cr.P.C. It is further submitted by learned counsel for the petitioners that at the moment, the petitioners are apprehending arrest following registration of the complaint case which has been registered under Sections 498-A/302/304-B/34, I.P.C. Therefore, the present application has been filed under Section 438, Cr.P.C.

6. Learned counsel for the State does not dispute the factual position of the case as has been narrated hereinabove. However, learned counsel for the State submits that let the petitioners surrender before the learned court below and apply for fresh bail.

7. Considering the submissions advanced by both the sides, this Court is upon a conspectus materials available on record, directs the petitioners to surrender before the learned court below and move for bail. However, it is directed that in the event such an application is filed by the petitioners, the court in seisin over the matter shall consider the case keeping in view the fact of earlier release on bail of

the petitioners by the learned Sessions Judge by taking into consideration the self-same facts and shall pass necessary orders in accordance with law.

7. With the aforesaid observation/direction, the ABLAPL is disposed of.

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

(A.K. Mohapatra)
Judge

Jagabandhu

