

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.8393 of 2022

Kourab Swain

....

Petitioner

Mr. Kshirod Kumar Rout, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Sitikant Mishra, A.S.C.

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

23.08.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Addl. Standing Counsel for the State.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioner for anticipatory bail, involving offence punishable under Sections 457/376(1), I.P.C.
4. It is submitted by learned counsel for the Petitioner that the statement of the victim recorded under Section 164, Cr.P.C. shows that the Petitioner has not committed rape on the victim. He further submits that the victim refused to be examined medically. Therefore, at best it can be a case under Section 354, I.P.C. and not under Section 376, I.P.C.
5. Learned counsel for the State, upon verification of record, confirms the fact that in the 164, Cr.P.C. statement no allegation has

been made by the victim regarding commission of offence under Section 376, I.P.C.

6. Considering the aforesaid submissions, seriousness of the allegation, gravity of the offence and the facts of the case, although I am not inclined to grant anticipatory bail to the Petitioner, however it is observed that, in the event the Petitioner surrenders and moves for bail before the learned J.M.F.C., Aul in G.R. Case No.449 of 2022 corresponding to Rajkanika P.S. Case No.0230 of 2022 within a period of three weeks from today, he shall be released on bail on such terms and conditions as the learned Magistrate may deem just and proper in the facts and circumstances of the case, but subject to the further following conditions –

(i) That, the Petitioner shall cooperate in the investigation by appearing before the I.O. as and when required;

(ii) He shall appear before the learned trial court on each date of trial, without fail.

(iii) He shall not threaten, terrorise, influence or harass the Informant and her family members or any of the prosecution witnesses in any manner whatsoever.

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

7. The ABLAPL is disposed of accordingly.

8. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge