

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.8438 of 2022

Dharmendra Bag

.... ***Petitioner***
Mr. J. Panda, Advocate

-versus-

State of Odisha

.... ***Opp. Party***
Mr. M.K. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

10.08.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.
3. This is an application under Section 438, Cr.P.C. filed by the petitioner for anticipatory bail.
4. Earlier the petitioner had approached this Court by filing anticipatory bail application vide ABLAPL No.77 of 2022, which was disposed of by this Court vide order dated 28.01.2022 directing the petitioner to surrender before the learned court below and move application for bail. Again the present anticipatory bail application has been filed under Section 438, Cr.P.C. to grant anticipatory bail.
5. The petitioner is seeking pre-arrest bail in connection with C.T. Case No.514 of 2021, arising out of Dharamgarh P.S. Case No.199 of 2021 pending in the court of learned S.D.J.M., Dharamgarh for commission of offence punishable under Sections 498-A/294/323/307/34, I.P.C. read with Section 4 of the D.P. Act.
5. Learned counsel for the petitioner submits that while the earlier bail application was being considered, injury report was not available.

However, now the said injury report is available and the injury report is annexed as Annexure-2 to the bail application.

6. On perusal of the injury report, it appears that there is swelling injury on the left cheek of face of the injured caused by blunt and hard weapon. However, the doctor, who had examined the injured, has opined the nature of injury is simple in nature.

7. However, on the submission of the learned counsel, the petitioner is given liberty to surrender before the learned S.D.J.M., Dharamgarh 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 his application for bail in the first hour strictly on the basis of the materials on record. In case of rejection of the bail application, the petitioner 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 on the same day strictly on the basis of the materials on record. However, it is made clear that while considering the bail application of the petitioner, learned court below shall take into consideration the fact that the injuries sustained by the injured are simple in nature.

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. With the aforesaid observation, the ABLAPL is accordingly disposed of.

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

(A.K. Mohapatra)
Judge

