

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.9020 of 2022

M.Poleya & others

Petitioners

....
Mr.Jyotirmaya Sahoo, Advocate

-versus-

State of Odisha

.... ***Opposite Party***

Mr.M.K.Mohanty, A.S.C.

**CORAM:
JUSTICE A.K.MOHAPATRA**

**ORDER
23.09.2022**

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
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3. Heard learned counsel for the Petitioners, learned Addl. Standing Counsel for the State. Perused the records.
4. This is an application under Section 438, Cr.P.C. filed by the Petitioners for anticipatory bail, involving offence punishable under Sections 302/34 of the Indian Penal Code.
5. It is submitted by the learned counsel for the Petitioners that initially the case was registered under section 302/34 of the Indian Penal Code and investigated and final charge sheet was filed for commission of the offence 498-A,304-B,306,406 of the Indian Penal Code read with Section 4 of the D.P.Act against Petitioner Nos. 2 & 6. It is further submitted by the learned counsel for the Petitioners

that no charge sheet was submitted against Petitioner Nos.1,3,4 & 5. However a protest petition had been filed by the informant. Learned court below has added the offence under section 302/34 of the Indian Penal Code and cognizance has been taken by the court below vide order dated 24.02.2022 under sections 498-A, 304-B,306, 406 of the Indian Penal Code read with Section 4 of the D.P.Act. Further cognizance was taken under section 302, 304-(B), 120(B)/34 of the Indian Penal Code. It is submitted by the learned counsel for the Petitioners that the Petitioners were on bail before cognizance under section 302/34 of the Indian Penal Code was taken.

6. Learned Additional Standing Counsel on the other hand submits that there are materials against the Petitioner No.6. Therefore, he opposes the bail for Petitioner No.6.

7. Further, it is submitted by the learned counsel for the Petitioner that after investigation it has been ascertained that the deceased has committed suicide by consuming poison.

8. Considering the 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 Nos.1,3,4 & 5, however it is observed that, in the event the Petitioner Nos.1,3,4 & 5 surrender and move for bail before the learned S.D.J.M., Berhampur in G.R. Case No.685 of 2021 arising out of Golanthora P.S. Case No.111 of 2021 within a period of three weeks from today, they 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.

9. Learned counsel for the Petitioners submits that he has challenged the order of taking cognizance under section 482 Cr.P.C

in respect of Petitioner No.6. Therefore, liberty is sought for to withdraw this bail application in respect of Petitioner No.6 to pursue the remedy in pending 482 Cr.P.C. application. As such the said application in respect of Petitioner No.6 is disposed of as withdrawn with liberty as prayed for.

10. The ABLAPL is disposed of accordingly.

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

(A.K. Mohapatra)

Judge

RKS

