

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.9121 of 2022

Basanta Kumar Mallik and others* *Petitioners
Mr.Harekrushna Malik, Advocate

-versus-

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
04.08.2022

Order No.

01.
 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner Nos.3 & 4 and the learned Additional Standing Counsel. Perused the records.
 3. This is an application under Section 438 Cr.P.C. filed by the Petitioner Nos.3 & 4 for anticipatory bail.
 4. It is submitted by the learned counsel for the Petitioner Nos.3 & 4 that the Petitioner Nos.3 & 4 have never assaulted the informant causing any visible injury. It is also submitted by the learned counsel for the Petitioner Nos.3 & 4 that the marriage between the informant and Petitioner No.1 is a dowry less marriage and after marriage the informant insisted Petitioner No.1 to live separately. The allegations made against the Petitioner No.3 & 4 are false and fabricated one and the offences alleged are not made out.
 5. Considering the nature of allegations made, gravity of the

offence and the fact of the case, I am not inclined to grant anticipatory bail to the Petitioner Nos.3 & 4. However, it is directed that in the event the Petitioner Nos.3 & 4 surrender before the learned S.D.J.M., Kendrapara in G.R.Case No.1291 of 2022 arising out of Marshaghai P.S.Case No.239 of 2022 within a period of three weeks from today and move for bail, they shall be released on bail on such terms and conditions as would be deemed just and proper by the learned Magistrate.

6. The Petitioner No. 1 & 2 are apprehending arrest for the alleged commission of offence under Sections 498-A,323, 294,354, 307, 376, 511, 506/34 of the Indian Penal Code read with Section 4 of the D.P. Act in G.R.Case No.1291 of 2022 of the Court of the learned S.D.J.M., Kendrapara, arising out of Marshaghai P.S. Case No.239 of 2022.

7. Considering the facts of the case, this Court is not inclined to grant anticipatory bail to the Petitioner Nos. 1 & 2.

8. However, on the submission of the learned counsel, the Petitioner Nos.1 & 2 are given liberty to surrender before the learned S.D.J.M., Kendrapara 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 their 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 Nos. 1 & 2 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 Nos.1 & 2 on the same day strictly on the basis of the materials on record.

9. Case Diary be made available to the concerned courts. Records be transmitted to the higher forum at the cost of the Petitioner Nos.1 & 2 if applied for.

10. The ABLAPL is accordingly disposed of.
11. Issue urgent certified copy of the order as per Rules.

(*A.K. Mohapatra*)
Judge

RKS

