

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.9347 of 2022

Bhakta Charan Jena

Petitioner

....

Mr.P.C.Jena, 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).
2. Heard learned counsel for the Petitioner, learned Addl. Standing Counsel for the State. Perused the records.
3. This is an application under Section 438, Cr.P.C. filed by the Petitioner for anticipatory bail, involving offence punishable under Sections 498-A, 406/34 of the Indian Penal Code.
4. It is submitted by the learned counsel for the Petitioner that although the case was initially registered under sections 498-A, 304-B, 302 of the Indian Penal Code read with Section 4 of the D.P. Act. However, after investigation charge sheet was submitted under sections 498-A,406/34 of the Indian Penal Code read with Section 4

of D.P. Act. It is further submitted by the learned counsel for the Petitioner that during investigation it was found that the victim died due to cardiac arrest.

5. Considering such facts, learned court below vide order dated 02.11.2007 has taken cognizance of the offence under section 406/34 of the Indian Penal Code. On verification of the record, it is found that the case is of the year 2003. Learned counsel for the Petitioner also submits that earlier the Petitioner has not moved any bail application before this court as there was no apprehension of arrest.

6. 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, however it is observed that, in the event the Petitioner surrenders and moves for bail before the learned Grama Nyayalay-cum-J.M.F.C., Bhograi in C.T. Case No.309 of 2003 corresponding to Bhograi P.S. Case No.113 of 2003 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.

While imposing conditions for bail, learned Magistrate shall also impose the following additional conditions –

- (i) The Petitioner shall appear before the I.O. and shall cooperate with the investigation as and when required by the I.O.;
- (ii) He shall appear before the trial court on each and every date fixed positively

- (iii) He shall not threaten, influence, terrorise or harass the prosecution witnesses and shall not tamper with the prosecution evidence.

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

5. The ABLAPL is disposed of accordingly.
6. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge

RKS

