

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.9884 of 2022

Kamisan Bira

....

Petitioner

Mr.Rabindra Nath Panda, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr.P.C.Das, A.S.C..

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

13.09.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard Mr. Panda, learned counsel for the Petitioner and Mr.Das, learned Additional Standing Counsel
3. The Petitioner apprehending his arrest in R.Udayagiri P.S.Case No.58 of 2021, registered for alleged commission of offences punishable under Sections 147, 148, 323, 324, 307, 186, 353, 332, 294, 342, 506, 269, 270/149 of the Indian Penal Code, Section 51(b) of the D.M.Act, Section 3(1) of E.D.Act, Sections 3(1)(r)(s)/3(2)(va) of S.C. & S.T.(PoA) Act and Section 3 of PDPP Act, has filed this application for his release on pre-arrest bail.
4. The prosecution allegation is that violating the COVID 19 norms, the Petitioner had congregated in large number in a marriage ceremony and when the Government officials went there to give effect to the COVID-19 Resolution some of whom were belonging to

Scheduled Tribes, they were abused and assaulted by the people who were there. Hence the case against the Petitioner.

5. The aforesaid fact does not reveal that the alleged abuse and assault was made on Scheduled Tribe Government official i.e. Police taking note of that fact that they belong to Scheduled Tribe or it was known to accused persons. The Tahasildar, who was also there and some others were also neither belongs to Scheduled Caste or Scheduled Tribe. Hence, from the same prima facie no offence under S.C. & S.T. (PoA) Act is made out. Therefore, this petition for pre-arrest bail is not hit by the prohibition under Section 18 of S.C. & S.T.(PoA) Act. Hence, the same is entertained. It appears that no major injury was sustained by any of the injured. The incident occurred when the Government official intervened in a marriage ceremony to enforce the Covid-19 norms and restrictions. The act was not pre-planned.

6. Hence, on consideration of the aforesaid facts and submissions made, especially the nature and character of allegations including the accusation under Section 307 of I.P.C., circumstances in which the offences stated to have been committed and also it being not disputed that the Petitioner's release on pre-arrest bail shall not be an hindrance to a free and fair investigation, this Court is of the view that the Petitioner has made out a case for his release on pre-arrest bail, more particularly when he is ready and willing to cooperate with the investigation and he has no chance of absconding and/or tampering with the prosecution evidence, if released on pre-arrest bail.

7. Therefore, this Court directs that in the event of arrest of the

Petitioner in connection with the aforesaid case, he be released on bail by the Officer effecting arrest on such terms and conditions as deemed just and proper including the conditions that he shall cooperate with the investigation, shall not indulge himself in any criminal activities and shall not make any contact or terrorise the prosecution witnesses in any manner. Violation of the conditions shall entail cancellation of bail. It is also made clear that if any other graver offence than the aforesaid offences is found to be there against the Petitioner, this order shall not be given effect to.

8. The ABLAPL is accordingly disposed of.
9. Issue urgent certified copy of this order as per Rules.



RKS