

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10019 of 2022

Ashok Kumar Shaw

....

Petitioner

Mr. P.S. Nayak, Advocate

-versus-

State of Odisha

....

Opp. Party

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.08.2022

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. The petitioner is seeking pre-arrest bail in connection with G.R. Case No.358 of 2013, arising out of Rasol P.S. Case No.116 of 2021 pending in the court of learned S.D.J.M., Hindol for commission of offence punishable under Section 406, I.P.C.
 5. It is submitted by learned counsel for the petitioner that the petitioner had obtained loan from the IDBI Bank in the year 2013 and a complaint lodged by the Bank before the Inspector of Police of the concerned Police Station making allegation against the petitioner that the petitioner has taken loan in advance for utilizing the same in plant and machinery in the factory premises of the company. On the

basis of the complaint, a case was registered under Section 406, I.P.C.

6. Further, learned counsel for the petitioner submits that the case under Section 406, I.P.C. is not made out against the petitioner as because the petitioner has already repaid the entire loan amount and also he has obtained no due certificate, which has been issued by the aforesaid Bank in favour of the petitioner on 15th of October, 2018 under Annexure-2 and the original title deed issued by the Bank in favor of the petitioner on 12.07.2019 under Annexure-3. It is also submitted by learned counsel for the petitioner that charge-sheet in the case has already been submitted and after final payment was made, no due certificate has also been obtained. Therefore, the police indicated that the complaint should have been recorded and submitted the same.

7. Learned counsel for the State, on the other hand, submits that the petitioner has repaid the entire loan amount and he had got notice by the Investigating Agency.

8. Considering the nature of allegation, gravity of offence and the fact of the case, I am not inclined to grant anticipatory bail to the petitioner. However, it is directed that in the event the petitioner surrenders and moves an application for bail before the learned court in seisin over the matter within a period of three weeks from today in the aforesaid case, he shall be released on bail on such terms and conditions as would be deemed just and proper.

9. It is further directed that the bail granted to the petitioner is subject to the condition that learned court below shall verify the fact that as to whether the petitioner has already repaid the entire loan amount as per letter dated 15th of October, 2018 under Annexure-2.

In the event it is found that the petitioner has not repaid the same, this bail order shall automatically stand revoked.

10. Accordingly, the ABLAPL is disposed of.

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

(A.K. Mohapatra)
Judge

Jagabandhu

