

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10093 of 2022

Ajaya Kumar Jena @ Santu

Petitioner

....

Mr. A.S.Paul, Advocate

-versus-

State of Odisha & another

....

Opposite Parties

Mr. S.Patra, A.S.C.

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

21.09.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. On oral prayer made by the learned counsel for the Petitioner, he is permitted to carry out correction in the body of the bail application in Court today.
3. Heard learned counsel for the Petitioner, learned Addl. Standing Counsel for the State. Perused the records.
4. This is an application under Section 438, Cr.P.C. filed by the Petitioner for anticipatory bail, involving offence punishable under Sections 363,366,376(2)(n) of the Indian Penal Code read with Section 6 of POCSO and 5(L) of POCSO Act and read with Section 3(1)(x)(xii) of S.C. & S.T.(PA) Act.
5. It is submitted by the learned counsel for the Petitioner that initially the case was registered under section 363 of the Indian Penal Code read with Section 3(i)(x) of S.C. & S.T.(P.A.) Act. Earlier the Petitioner approached this Court by filing ABLAPL No.15844 of

2015 and this Court after taking note of the 164 Cr.P.C. statement of the victim and further considering the fact that the Petitioner and the victim are married and living as husband and wife directed the Petitioner to surrender and go on bail. It is further submitted by the learned counsel for the Petitioner that trial court has taken cognizance under section 363, 366, 376(2)(n) of Indian Penal Code read with Section 6 POCSO Act and Section 5(L) of POCSO Act read with Section 3(1)(x)(xii) of S.C & S.T. (P.A.) Act. He further submits that the Petitioner and the victim are married and in support of such contention the Petitioner has filed the Marriage Certificate bearing Marriage Certificate No.08 of 2018 issued by the Marriage Officer, Tangi dated 29.10.2018. He also submits that they have blessed with a female child on 25.05.2019.

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 Additional District & Sessions Judge-cum-Special Judge (POCSO), Khurda at Bhubaneswar in T.R.Case No.314 of 2016 arising out of Tangi P.S. Case No.216 of 2015 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.

7. The ABLAPL is disposed of accordingly.

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

(A.K. Mohapatra)
Judge