

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10506 of 2022

Abinash @ Abhinav Mukhi

....

Petitioner

Sriya Kumari Nayak, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Shashank Patra, A.S.C.

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

06.09.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Addl. Standing Counsel for the State.
3. 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), I.P.C. read with Section 6 of the POCSO Act.
4. Learned counsel for the Petitioner, while referring to the Xerox copy of the 164, Cr.P.C. statement of the victim girl, draws attention of the Court that the victim has stated before the Magistrate that she left her parental house on her own volition and she got married to one Abinav Mukhi (present Petitioner) and both are living as husband & wife happily. Learned counsel for the Petitioner further submits that in the meantime the victim has been blessed with a girl child on 05.05.2016. He further submits that the victim has nowhere

made any allegation with regard to forcible sexual intercourse or rape by the present Petitioner - Abinash Mukhi.

5. Considering such submissions, seriousness of the allegation, gravity of the offence and the facts of the case, 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 Addl. Dist. & Sessions Judge-cum-Special Court under POCSO Act, Phulbani in G.R. Case No.77 of 2015 corresponding to Phulbani Town P.S. Case No.135 of 2015 within a period of three weeks from today, learned court in seisin over the matter shall verify the 164, Cr.P.C. statement of the victim girl and in the event it is found that the same is in the tune to the submission made by the learned counsel for the Petitioner recorded hereinabove, he shall release the Petitioner on bail on such terms and conditions as would be deemed just and proper in the facts and circumstances of the case.

6. The ABLAPL is disposed of accordingly.

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

(A.K. Mohapatra)
Judge