

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.10533 of 2022

Kasturi Behera

....

Petitioner

Mr. Uttam Kumar Patnaik, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Sitikant Mishra, A.S.C.

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

17.10.2022

Order No.

03. 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 offences punishable under Sections 317/376(2)(n)/294/507, I.P.C.
4. It is submitted by learned counsel for the Petitioner that the alleged offences under Sections 317/376(2)(n)/294/507, I.P.C are not made out against the Petitioner and he has been falsely implicated in this case. He further contends that the principal accused namely Aswini Kumar Behera has already been enlarged on bail by this Court vide order dated 16.08.2022 passed in ABLAPL No.2929 of 2022.

5. Considering such submission, 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, the Petitioner is given liberty to surrender before the learned S.D.J.M., Dhenkanal in G.R. Case No.657 of 2019 corresponding to Dhenkanal P.S. Case No.175 of 2019 in the first hour within 21 working days from today and move for bail. In such event, the learned Magistrate shall consider the bail application of the Petitioner in the first hour of the day, strictly on the basis of the materials available on record. In case of rejection of the bail application by the learned Magistrate, the Petitioner may move for bail before the higher forum in the second hour of the same day. In that event, the higher forum shall consider and dispose of the bail application of the Petitioner on the same day on merit, strictly on the basis of the materials available on record. Case Diary be made available to the learned courts below as soon as possible to facilitate in disposing of the bail application of the Petitioner on the same day itself.

6. Ground of parity, if canvassed by learned counsel for the Petitioner, may be taken into consideration by the learned courts below as per law, while dealing with the bail application of the Petitioner on merit.

7. The ABLAPL is disposed of accordingly.

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

(A.K. Mohapatra)
Judge