

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.12010 of 2022

Deepankar Baral

....

Petitioner

Mr. Gopinath Mishra, Advocate

-versus-

State of Odisha

....

Opp. Party

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

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

20.10.2022

Order No.

02.

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.283 of 2022, arising out of M.V.79 P.S. Case No.54 of 2022 pending in the court of learned J.M.F.C., Motu for commission of offences punishable under Sections 376/313/498-A/417/493/34, I.P.C.

5. It is submitted by learned counsel for the petitioner that the offences under Sections 376/313, I.P.C. are not made out against the present petitioner. By referring the circumstantial evidences, he submits that the present petitioner is liable for the offence under Section 417/493, I.P.C. out of which, 493, I.P.C. is non-bailable in nature. Further, it is submitted by learned counsel for the petitioner

that the relationship of the petitioner with the victim is consensual and the victim girl is a major aged about 25 years. On such ground, learned counsel for the petitioner submits that he is entitled to be released on bail.

6. Learned counsel for the State, on the other hand, submits that the alleged crime is very heinous in nature and the victim has been cheated in various ways and she has been used by many persons including the present petitioner. It is further submitted by learned counsel for the State that one Atul Halder is the principal accused in the present case. Initially, he committed rape on the victim and thereafter the victim became pregnant. The above named principal accused brought her and produced before the present petitioner. Thereafter, the victim stayed with the present petitioner with the hope that the petitioner will marry her. However, as per statement of the victim recorded under Section 164, Cr.P.C., there is no allegation of rape made out against the petitioner and the relationship. However, considering the nature of allegation, gravity of offence made out in the F.I.R., learned counsel for the State submits that the bail application of the petitioner should be rejected at this juncture.

7. Having heard learned counsel for the parties and upon careful perusal of the materials placed before this Court and the facts and the stage of the present case, this Court is of the considered opinion that the victim in the case is a young lady has tortured /suffered by more than one persons. However, so far as Atul Halder is concerned it can be mitigated by providing compensation, which is final outcome of the trial to be conducted in the present case. Accordingly, it is made clear that the victim is directed to approach before the District Legal Service Authority, who shall accept the application of the victim to provide

legal assistance for getting compensation scheme.

8. Further, considering the facts and circumstances and the role of the present petitioner, 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. Accordingly, the ABLAPL is disposed of.

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

(*A.K. Mohapatra*)
Judge

Jagabandhu

