

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.12426 of 2022

K.V. Akhil

.... ***Petitioner***
Mr. Jaydeep Pal, Advocate

-versus-

State of Odisha

.... ***Opposite Party***
Mr. P.C. Das, A.S.C.

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
28.09.2022

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 341/294/323/323/506/354/34, I.P.C. read with Sections 3(1)(r), 3(1)(s), 3(2)(v) & 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. Learned counsel for the petitioner submits that there exists previous dispute between the parties, as a result of which several cases have been registered by the parties against each other. He further submits that, no case under Section 3 of the SC & ST (PA) Act is made out against the present Petitioner in this case. Further, on perusal of the F.I.R. it appears that the Informant has only narrated herself to be a member of the Scheduled Caste community

without specifically mentioning her caste. It is further submitted that the same Informant has lodged similar F.I.R. against one Shiv Sankar Samantaray making allegation under Section 3 of the S.C. & S.T. (PA) Act. However, this Court in Criminal Appeal No.151 of 2020 considered such bail application vide order dated 27.07.2020 and held that there is no such material on record that she belongs to Scheduled Caste community, for which offence under Section 3 of the SC & ST (PA) Act is not made out. In the present case also, on perusal of the F.I.R. this Court is of the prima facie view that no case is made out under the SC & ST (PA) Act. However, this observation is subject to the evidence to be led at the time of trial.

5. Considering such submission, 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 S.D.J.M., Bhubaneswar in T.R. Case No.61 of 2022 corresponding to Chandrasekharpur P.S. Case No.65 of 2022 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.

However, while imposing conditions for bail, learned Magistrate shall also impose the following additional conditions –

- (i) The Petitioner shall appear before the I.O. and shall cooperate with the investigation as and when required by the I.O.;
- (ii) He shall also appear before the trial court on each date fixed for trial, without fail.

- (iii) He shall not threaten, terrorise, ill-treat or harass the Informant and her family members including the prosecution witnesses in any manner whatsoever, while on bail.

Violation of any of the conditions shall entail cancellation of bail of the Petitioner.

6. The ABLAPL is disposed of accordingly.
7. Urgent certified copy of this order be granted as per rules.

S.K.Parida

