

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.13071 of 2022

Sapan Kumar

....

Petitioner

Mr. L.N. Rayatsingh, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. Debasis Biswal, ASC

Mr. M.R. Dhal, Advocate for the Informant

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

02.12.2022

Order No.

04.

1. Heard learned counsel for the Petitioner and the State.
2. This is an application for bail U/s.438 Cr.P.C. filed by the Petitioner in apprehension of arrest for his alleged involvement in the offences U/s.493/506 IPC.
3. Learned counsel for the Petitioner submits that pursuant to the direction issued by this Court vide order dated 28th November, 2022 the Petitioner while was present along with his counsel before the Mediator, the Informant did not appear in person but represented through her counsel. According to the report of the Mediator as submitted to the Court vide letter No.805, dated 28th November, 2022 by the Coordinator, High Court of Orissa Mediation Centre the mediation became unsuccessful.

4. Coming to the merit of the application, it is submitted by learned counsel for the Petitioner that the Informant did not cooperate for an amicable settlement which otherwise could have resolved the misunderstanding between the parties and further that the Informant having no intention to reside with the Petitioner. The allegations appearing in the FIR is false and concocted and the Petitioner may be considered for pre arrest bail. He further submitted that the FIR discloses the clear consent of the victim with a believe that the Petitioner got married to the victim and cohabited which constitute the offence U/s.493 IPC.

5. Learned counsel for the Informant on the other hand vehemently opposed the contention raised by the Petitioner and submitted that the offence in which the Petitioner has been implicated being heinous and serious in nature and no manner of leniency can be shown to the Petitioner and insisted for rejection of the bail of the Petitioner.

6. Keeping in view the submission of the parties, prima facie there appears a deception on the part of the Petitioner vis-à-vis the Informant as regards the offence U/s.493 IPC, the matter can be thrashed during trial, while this Court is not inclined to grant anticipatory bail, the Petitioner is at liberty to surrender before the learned S.D.J.M., Bhubaneswar in connection with C.T. Case No.6143 of 2022 corresponding to Bhubaneswar Mahila P.S. Case No.130 of 2022 within three weeks' hence and moves for bail. In such event the learned court in seisin over the matter 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 its own merit.

7. In case of rejection of the bail application by the learned court, 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 its own merit strictly on the basis of the material available on record.

8. Case diary be made available to the learned courts below as soon as possible to facilitate disposal of the bail application of the Petitioner on the same day. The ABLAPL is disposed of.

(Chittaranjan Dash)
Judge

KC Bisoi