

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.13314 of 2022

***Bijaya Kumar Maharana and
others*** ***Petitioners***

Mr. Niranjan Panda, Advocate

-versus-

State of Odisha ***Opp. Party***
Mr. Debasis Biswal, ASC

**CORAM:
JUSTICE CHITTARANJAN DASH**

**ORDER
02.11.2022**

Order No.

02.

1. Heard learned counsel for the Petitioners and the State.
2. By means of this application under Section 438 Cr.P.C., the Petitioners seek bail in anticipation of their arrest for alleged involvement in the offence under Sections 363/366/376(2)(n)/294/323/34 IPC read with Section 6, 17 of the POCSO Act and Section 9, 10 of the Prohibition of Child Marriage Act.
3. It is submitted by the learned counsel for the Petitioners that the entire story narrated in the F.I.R. is inconsistent inasmuch as the victim having married to the accused Petitioner No.1 resided in her matrimonial house and subsequently, made allegations with respect to the demand of dowry and ill treatment subjected to her. He further contended that consequent upon the marriage of the victim with Petitioner No.1 the allegation with regard to the offence under

Sections 363/366/376(2)(n)/294/323/34 IPC read with Section 6, 17 of the POCSO Act and Section 9, 10 of the Prohibition of Child Marriage Act loses its relevance and further that the offence alleged against the Petitioners under different provisions of the POCSO Act stands relegated and the offences alleged would simply be taken under Section 498-A IPC.

4. Learned counsel appearing for the Informant on the contrary vehemently opposed the contention of the Petitioners and submitted that the very act of Petitioner No.1 getting married to the victim while she was a minor and all the overt acts narrated in the FIR showing the circumstances that the victim was forcefully established physical relation who got impregnant and at the active participation of the Petitioners not only it leads to a serious and grave offence but also puts the life of the victim at stake at a tender age. Consequently, the Petitioners are not entitled to the bail as claimed.

5. Having heard the submissions of the parties and keeping in view the allegations appearing in the FIR as well as the statements of the victim recorded under Section 164 Cr.P.C., there appears material to connect the Petitioner No.1 in the alleged offence which is not only grave but also serious. All that transpires from the statement of the victim points primarily to the Petitioner No.1. Consequently no manner of leniency can be shown in respect to the consideration of the anticipatory bail to any of the Petitioners and same deserves rejection. However, the allegations in respect to the Petitioners 2 to 9, this Court while rejecting the application for anticipatory bail

observe that in case Petitioners 2 to 9 surrender before the learned court in seisin over the matter within three weeks' hence and move for bail, the court in seisin over the matter shall consider them for bail on its own merit keeping in view the inconsistency appearing in the allegations and the fact that most of them are senior citizen above age of 60 years and women.

4. In case the court desires to grant bail it shall do so on such terms and conditions as the court would deem fit and proper besides the conditions that they shall appear in court in each date in person unless specifically allowed exemption by the court and shall furnish undertaking that they shall not do any such act detrimental to the interest of the family of the victim in any manner in pursuing their case or otherwise with further condition that violation of any of the terms and conditions would render, the grant of bail, if any, entail cancellation.

5. As far as Petitioner No.1 is concerned, this Court is not inclined the prayer stands rejected.

6. The ABLAPL is disposed of.

(Chittaranjan Dash)
Judge

KC Bisoi