

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.13607 of 2022

Sunil Pradhan

....

Petitioner

Mr. Digambar Sethi, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Shashanka Patra, A.S.C.

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

15.12.2022

Order No.

05. 1. Heard the learned counsels for the Petitioner and the State.
2. By means of this application, the Petitioner seeks grant of bail U/s.438 Cr.P.C. in apprehension of arrest for his alleged involvement in the offence U/s. 376/496/415/313/307, I.P.C. and Sections 25 & 27 of Arms Act, in connection with I.C.C. Case No.111 of 2022 pending in the court of learned S.D.J.M., Jeypore.
3. Learned counsel for the Petitioner submits that the alleged incident is the result of a consensual act of the victim lady and there is no material to implicate the present Petitioner in the offence alleged. It is further submitted by the learned counsel for the Petitioner that the entire allegations in the F.I.R. as well as the statement of the witnesses are false and baseless and keeping in view the fact that the victim lady is elder than the Petitioner, it was well within the knowledge of the victim lady as to the consequence of the act she performed with the Petitioner and as such nothing can be attributed

to the Petitioner and accordingly he prays for consideration of the pre-arrest bail.

4. Learned counsel for the State on the other hand opposed the bail application in vehemence.

5. From the tenor of narration made in the F.I.R. and the act alleged against the Petitioner vis-à-vis the role of the victim lady reveals a consensual elopement. Be that as it may, having regard to the nature and seriousness of the allegation, gravity of the offence and the facts and circumstances of the case, while this Court is not inclined to grant anticipatory bail, it is directed that the Petitioner, if so chooses, may surrender before the learned S.D.J.M., Jeypore in the aforesaid I.C.C. Case during the first hour within three weeks 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 itself, strictly on the basis of the materials available on record.

6. 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 its own merit, strictly on the basis of the materials available on record, without being influenced by any observation made herein by this Court or even presuming it to be a direction in affirmative.

7. Case Diary be transmitted and made available to the learned courts below, at the cost of the Petitioner, as soon as possible to facilitate

disposal of the bail application of the Petitioner on the same day itself.

8. The ABLAPL is disposed of accordingly.

(Chittaranjan Dash)
Judge

S.K.Parida

