

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.14776 of 2021

Hrushikesh Khuntia and another *Petitioners*
-versus-
State of Odisha and another *Opposite Parties*

CORAM: JUSTICE S. PUJAHARI

ORDER
20.09.2022

Order
No.

- 02.
1. This matter is taken up through hybrid mode.
 2. The Petitioners apprehending their arrest in Rajkanika P.S. Case No.171 of 2021 registered for alleged commission of offences punishable under Sections 498-A, 376-D, 506 and 109 of the I.P.C. read with Section 4 of the Dowry Prohibition Act, 1961, have filed this petition for their release on pre-arrest bail.
 3. Heard the learned counsel for the Petitioners and the learned counsel for the State-Opposite Party No.1.
 4. It appears that the Petitioners had earlier approached this Court in ABLAPL No.10352 of 2021, which was dismissed as being not maintainable. Thereafter, CRLMA No.212 of 2021

was filed which was disposed of with liberty to the Petitioner to file a better application.

5. It is a case of gang rape, as revealed from the F.I.R. and the statement of the victim recorded under Section 164 of Cr.P.C.

6. Since Section 438(4) of Cr.P.C. prohibits to entertain the prayer for pre-arrest bail in such case, the prayer for pre-arrest bail of the Petitioners is dismissed being not maintainable.

7. However, it is open to the Petitioners to surrender before the Court in seisin over the matter within six weeks hence and if they surrender and move for bail, the Court in seisin over the matter shall consider and dispose of their bail application in course of the day taking into consideration the release of the co-accused persons, if any.

(S. Pujahari)
Judge