

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 16525 of 2022

Suresh Mahanta

....

Petitioner

Mr. Abhaya Kumar Parida, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. Debasis Biswal, ASC

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

03.01.2023

Order No.

01.

1. Heard learned counsel for the Petitioner and the State.
2. By means of this application, the Petitioner seeks grant of anticipatory bail U/s. 438 of Cr.P.C. in apprehension of arrest for his alleged involvement in the offences under Sections 341/323/376(2)(n)/34 of IPC.
3. Learned counsel for the Petitioner submits that there is no direct allegation against the Petitioner except that he facilitated the principal accused.
4. It is submitted by learned counsel for the State that the statement of the victim has recorded under Section 161 of CrPC so also the statement recorded under Section 164 of CrPC, there appears substantial material to implicate the present Petitioner.
5. Perusal of the FIR and documents appearing in Annexure-2 as finds place in the case record, clearly establishes the present

Petitioner to have had an overt act in execution of the crime by the principal accused.

6. Keeping in view the submission of the parties, the nature of allegations as emerged from the materials on record, the circumstances appearing, the seriousness and gravity of the offences, while this Court is not inclined to grant anticipatory bail, the petitioner is at liberty to surrender before the learned Special Judge, SC/ST (PA) Act, Kenojhar in Harichandanpur Case No.104 of 2022 corresponding to Special Case No.37 of 2022 within three weeks from today 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.

8. The court below shall not be influenced by any of the observations of this court made herein above in any manner. 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 as far as possible.

9. Court has to apply its own wisdom in dealing with the application for bail.

10. The ABLAPL is disposed of.

(Chittaranjan Dash)
Judge

AKPradhan

