

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No.14653 of 2022

Laxmidhar Nayak & others

....

Petitioners

Mr. D.K Mohapatra, Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. M.K Mohanty, A.S.C.

CORAM:

JUSTICE CHITTARANJAN DASH

ORDER

30.11.2022

Order No.

- 01.
1. Heard learned counsel for the Petitioners and learned counsel for the State.
 2. By means of this application U/s. 438 Cr.P.C., the Petitioners seek grant of bail in anticipation of arrest for his alleged involvement in the offences U/s. 294/323/354/447/448/506/34 of IPC pursuant to the ICC Case No. 5414 of 2021, pending on the files of the learned J.M.F.C (O), Bhubaneswar.
 3. It is alleged that on 01.11.2021 at about 08.00 AM when the complainant along with her sister-in-law was cleaning the house, the Petitioners tried to cause hurt and assault and trespassed into the house of the complainant forcefully without any information to the complainant. The Petitioners No.1 & 2 caught hold the complainant and forcibly dragged her saree and also threatened the complainant to do away with their lives and abused in filthy languages. After that the Petitioner No. 2 assaulted her by the help of bamboo stick,

as a result the complainant fell down on the floor and sustained bleeding injuries. At that time when the complaint's sister in law protested and made hulla, Petitioners tried to flee away from the spot and also threatened the complainant to face the dire consequences. The Petitioners also gave kick blow and dragged the hairs of the complainant. Finally, the complainant filed the complaint before the learned J.M.F.C (O), Bhubaneswar.

4. The learned court concerned pursuant to the complaint issued process in form of a N.B.W.A. Apprehending their arrest the Petitioners move in the present.

5. Needless to say that anticipatory bail is maintainable in an eventuality of issuance of NBWA. However, in the present context when the court by virtue of an order taking cognizance issues process of NBWA it is not proper for the party to resort this jurisdiction but a supervisory forum. There is no quarrel to the principles enunciated in the decision cited by the learned counsel for the Petitioner but the same cannot be made applicable while exercising a jurisdiction U/s. 438 since court has acted in furtherance of executing the order where it is required to examine the legality and propriety of the order so passed. In the result this court is not inclined to entertain the present application.

6. The ABLAPL is dismissed as such.

(Chittaranjan Dash)
Judge

B.K Sahoo