

IN THE HIGH COURT OF ORISSA AT CUTTACK

ABLAPL No. 15761 of 2022

Jiten Satnami

....

Petitioner

Mr. Tukuna Kumar Mishra , Advocate

-versus-

State of Odisha

....

Opp. Party

Mr. S. Patra, ASC

**CORAM:
JUSTICE CHITTARANJAN DASH**

**ORDER
20.12.2022**

Order No.

01. 1. Heard learned counsel for the Petitioner and for the State.
2. This is an application for bail U/s. 438 Cr.P.C. filed by the Petitioner in apprehension of arrest for his alleged involvement in the offences U/s. 493/417/506/34 of IPC.
3. It is submitted by learned counsel for the Petitioner that the Informant is a married woman allegedly to be in physical relation with the Petitioner on several occasions being aware of the consequences. There is no material to attract the offence U/s. 493 IPC. According to the learned counsel there is also no material to indict the accused in the offence of 417 of IPC as there is no element of deception and as such the Petitioner may be considered for pre-arrest bail.

4. Keeping in view the submission of the learned counsel for the Petitioner, admittedly the FIR discloses that the Informant to be a married woman but having dissension with her husband and in-laws, she is residing with her grand-mother along with her child. The very fact that she kept physical relationship with the present Petitioner on the assurance that she would be kept as his wife, Prima-facie appears a myth since her marital relations was in force. The further allegation that the Petitioner gave impression to the Informant to have married and to maintain the relationship as husband and wife before the annulment of her previous marriage is again a situation, which cannot attract the offence U/s 493 of IPC unless evidence is laid. The overall allegation reveals that the Informant under any circumstances kept physical contact with the Petitioner, the consequences whereof or willingness is a matter that need be thrashed in trial.

5. Keeping in view the submission of the parties and having gone through the nature of allegations as emerged from the material on record and further 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 NGN-cum-JMFC, Raigarh in Raigarh P.S. Case No.214 of 2022 corresponding to G.R. Case No.314 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.

6. 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.

7. It is made clear that the learned 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.

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

9. The ABLAPL is disposed of.

(Chittaranjan Dash)
Judge

B.K Sahoo/AK Pradhan